

REPORTER'S RECORD

CAUSE NUMBER 11-1-8527

VOLUME 1 OF 1 VOLUME

THE STATE OF TEXAS) (IN THE DISTRICT COURT
VS.) (OF
BILLY JOE HARRIS) (JACKSON COUNTY, TEXAS

CASE-IN-CHIEF

TESTIMONY OF COLIN ROSS

September 20, 2011



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1 MR. COHEN: Dr. Colin Ross.

2 THE COURT: Colin Ross.

3 (Witness sworn by the clerk.)

4 THE COURT: Have a seat.

5 Mr. Ross, have you testified in a live proceeding
6 before?

7 THE WITNESS: Yes, I have.

8 THE COURT: And if I tell you The Rule has been
9 invoked, do you know what that means?

10 THE WITNESS: I'd like you to remind me.

11 THE COURT: It means that you can't talk to other
12 witnesses about any impression that you have or anything that
13 you know or think about this case until the case is over. You
14 can talk to the lawyers, but you can't engage anyone else in a
15 conversation about the case until it's over. And I suspect it's
16 going to be over in two or three weeks, and if you leave here
17 after... Where are you from?

18 THE WITNESS: Dallas.

19 THE COURT: Well, probably not anybody in Dallas
20 is going to talk to you about it.

21 THE WITNESS: Does that include media?

22 MR. BELL: Does that include who? Media?

23 THE WITNESS: Media.

24 MR. BELL: Does Dr. Ross want to -- do you want
25 to talk to the media?

1 THE WITNESS: Well, there are media people here.
2 If they want to talk to me, the question is can I talk to them?

3 MR. BELL: I don't know, it's up to the judge
4 whether you want to let him talk to the media.

5 THE COURT: After the trial is over you can.

6 THE WITNESS: Okay.

7 MR. BELL: Your Honor, at this time the State
8 needs to inform the Court that it is making an objection, but we
9 are asking the Court to defer its ruling on the objection
10 because the facts need to be developed. We are objecting to Dr.
11 Quijano's testimony and we're going to be objecting to Dr.
12 Ross's testimony, that there has been no evidence and there will
13 be no evidence that these theories are generally accepted in the
14 scientific community, that they've been subjected to peer
15 review, and/or percent of error, the things that are necessary
16 under Daubert. We're making the Daubert objection, but we'd
17 like to ask the Court to defer its ruling until all facts have
18 been developed.

19 And I'd also like at this time, Your Honor, since
20 we don't have it, to ask if we could have at this time any and
21 all notes that Dr. Ross has taken in connection with this
22 testimony so that we can review them during his testimony.

23 THE COURT: Okay. Approach.

24 (At the Bench, off the record.)

25 THE DEFENDANT: The Court is trying to manipulate

1 again.

2 MR. BELL: Who's making the copies? Is it
3 Sharon?

4 THE COURT: The clerk is.

5 (Mr. Bell exits the courtroom.)

6 (Pause in the proceedings.)

7 MR. COHEN: May I proceed, Judge.

8 COLIN ROSS,

9 having been first duly sworn, testified as follows, to-wit:

10 DIRECT EXAMINATION

11 BY MR. COHEN:

12 Q. Dr. Ross, would you please introduce yourself to the
13 jury.

14 A. My name is Colin Ross. I'm a psychiatrist, I live in
15 Dallas.

16 Q. And, Dr. Ross, would you please present your academic
17 credentials to the jury.

18 A. I was in medical school in Canada from 1977 to 1981.
19 Then I did my psychiatry training again in Canada, 1981 to 1985,
20 and got a Canadian specialty in psychiatry. I was an academic
21 medical school based psychiatrist in Canada from 1985 to 1991
22 and then in 1991 I moved to Dallas, working at a private
23 hospital there. And I've been running a trauma program in the
24 Dallas area, 1991 to the present.

25 Q. Okay. And, Doctor, are you licensed to practice in

1 Texas?

2 A. Yes, I'm licensed in Texas.

3 Q. And do you have any specialties?

4 A. I specialize in psychological trauma, which is bad
5 things that happen to people and their mental health effects,
6 and within that I specialize in a certain group of symptoms
7 called dissociative symptoms and dissociative disorders.

8 Q. And, Doctor, what is the DSM-IV?

9 A. The DSM-IV stands for Diagnostic and Statistical
10 Manual of Mental Disorders, Fourth Edition, which came out in
11 1994. The first edition came out in 1952. And it's basically
12 the Manual of the American Psychiatric Association that has all
13 the rules and criteria for making the different psychiatric
14 diagnoses.

15 Q. And, Doctor, what is the criteria that's used to list
16 and identify a certain type of mental disorder DSM-IV, what
17 processes does that have to go through?

18 A. Well, there's -- the development of the DSM was an
19 ongoing process, so the fifth edition is due out in 2013, and
20 there's efforts to revise, improve and make the criteria more
21 valid and more based on research as you go through each edition.
22 And these efforts are based on a whole body of psychiatric
23 research about what the symptoms are, how they cluster together,
24 whether the diagnosis can be agreed upon by different people and
25 if there's any outside evidence to support the validity of the

1 diagnosis.

2 Q. Does this go through a peer review?

3 A. There's a whole complex structure of committees in the
4 DSM, so there's a committee for substance abuse, committee for
5 depression, committee for eating disorders, and within those
6 committees there's an extensive review of all the literature
7 each time a new edition is coming out.

8 Q. And who was selected to be part of this peer review
9 and how were they selected?

10 A. Well, basically there's somebody who's in charge at
11 the top who's the overall head of the DSM process, which is
12 often a different person edition after edition, and then that
13 person has kind of a head working committee, and then that
14 working committee selects the head of each of the section
15 committees, like the depression section, the substance abuse
16 section. Then that person selects all the members of the
17 committee for that disorder. And that's based on knowledge of
18 the literature, professional relationships.

19 Q. And is the dissociative disorders, is that part of the
20 DSM-IV?

21 A. One of the sections, just like there's anxiety
22 disorders, mood disorders, there's the dissociative disorders
23 section.

24 Q. And the dissociative disorder section, did that come
25 into the DSM-IV back in the 1950's, or when was this integrated

1 into the DSM-IV?

2 A. There was discussion of multiple personality and
3 dissociative disorders going back to 1952 in the first edition
4 of the manual, but they first became their own separate section
5 in the 1980 edition, which was the DSM-III. And they've
6 maintained that status in the DSM-IV, which was 1994, what's
7 called the text revision of the DSM-IV, which came out in 2000,
8 and will again be in the DSM-V in 2013.

9 Q. And, Doctor, did you participate in any way involved
10 in either peer review or providing information for peer review
11 in debate?

12 A. My name's actually in the back of the DSM-IV under the
13 list of people on the dissociative committee because I was one
14 of the people on the committee; participated in actually
15 producing the literature, because I do a lot of writing;
16 reviewing it; discussing it; discussing what changes, if any,
17 there should be in the DSM-IV.

18 In the DSM-V the number of people whose names will be
19 at the back has been trimmed way down and I've been involved in
20 consulting to the process one conference call, submitting some
21 references and so on.

22 Q. Once a mental illness, if you would, is listed in the
23 DSM-IV, is it still up to debate -- and any of these mental
24 illnesses, is it still under constant review?

25 A. Everything in life in general, everything in

1 psychiatry is open for debate. And the reason we keep having
2 new editions of the manual is because there's always changes,
3 additions, discussion.

4 Q. Would it be correct to say that once the issue or the
5 illness of dissociative disorders is listed in the DSM-IV, would
6 that then be an accepted criteria for use in psychology?

7 A. Right. The scientific community that's in charge of
8 psychiatric diagnoses is the American Psychiatric Association,
9 and when they put a disorder in the DSM and keep it in
10 subsequent editions, that's the official statement by the
11 American Psychiatric Association that this is a real and valid
12 disorder and that there's a literature basis for it.

13 Q. So, in other words, it's accepted by the scientific
14 and medical community?

15 A. Right. That's automatically the case when it's in the
16 DSM.

17 Q. Doctor, have you yourself been involved in the
18 publication of any treatise or any other medical literature
19 dealing on this -- this particular psychological issue?

20 A. I have a little over 150 papers in psychiatric and
21 other professional journals, which are called peer-reviewed
22 journals, which means that you submit the paper to the journal,
23 the editor sends it out to reviewers who look at it and either
24 accept it, don't accept it, criticize it, ask for revisions.
25 And I've also published a series of books on dissociative

1 disorders with several different publishers.

2 Q. Doctor, what actually is a dissociative disorder?

3 A. Well, dissociation in the DSM is defined as a failure
4 of integration -- so I'll give you the words and then I'll
5 explain them -- a failure of integration in the normal functions
6 of consciousness, identity, memory and perception. So in the
7 normal course of events, in regular psychology, for instance
8 myself talking right now, there's just one Dr. Ross. I can see
9 the room, I can hear the room, I have certain feelings, I have
10 certain thoughts, and they're all kind of integrated together
11 into a single person. Dissociation is when there's a failure in
12 that process of integration. So there's bits and pieces of
13 thoughts, feelings, memory, identity and they're in separate
14 packets.

15 Q. When you say a failure, is that -- you mean like a
16 fragmentation?

17 A. No. There's different terms, which all kind of mean
18 about the same thing. There's splitting of the psyche,
19 fracturing of the psyche, fragmenting of the psyche, and this
20 can take place kind of in two levels. One is you just have a
21 buried thought, a buried feeling, a buried impulse, and it's
22 just somewhere else, disconnected from the main part of
23 yourself, or it can actually be housed in this compartment that
24 has a name, an age, an identity and is a, quote, separate
25 personality.

1 Q. Now, within dissociative disorders are there a series
2 of subsections?

3 A. There's basically five subsections in the dissociative
4 disorders area. There's dissociative amnesia, which is where
5 you have some usually traumatic event, you don't remember it and
6 that can't be explained by just everyday ordinary forgetting,
7 it's obviously some sort of blocking it out.

8 There's dissociative fugue, which is where you
9 suddenly travel to a new location and amnesia for your prior
10 life. And you may just be confused about who you are or develop
11 a new identity.

12 Depersonalization disorder is basically feeling that
13 yourself and your experience of the world are kind of unreal and
14 may include out-of-body experiences, where you feel like you're
15 watching yourself from above, where your body is like strangely
16 distorted and unreal. And that's linked with derealization. So
17 depersonalization is when you feel that you're kind of unreal,
18 in a dream, disconnected. Derealization is when you feel like
19 the world is kind of unreal, like you're just watching a video.

20 And then there's dissociative identity disorder, which
21 is multiple personality disorder, which is having these
22 different identities inside which take turns being in charge of
23 the body and one identity may or may not remember what the other
24 is doing.

25 And then there is a kind of grab bag category at the

1 end, which is dissociative disorder not otherwise specified,
2 which just means some sort of significant dissociative problem
3 but it doesn't fit one of those other four patterns.

4 Q. Doctor, at some point in time you were asked to come
5 on board to assist in the defense of Mr. Harris; is that
6 correct?

7 A. That's correct.

8 Q. And what was that reason, what was the purpose, why
9 were you asked?

10 A. Well, just as we heard from previous testimony, the
11 case was developed to a certain point where he was talking about
12 there's this Bobby inside, David inside, Robert inside, and so
13 clearly that sounds like multiple personalities, and Dr. Quijano
14 felt like he didn't have the training and expertise in that so,
15 as he said, they needed to bring in an expert. And they located
16 Dr. Goodwin, Jean Goodwin, who said that she wasn't willing or
17 able to participate and they should contact me, which then Mr.
18 Cohen did.

19 Q. And about what point in time, Doctor, did I make
20 contact with you to come on, to see if you were interested?

21 A. I forget the exact date, but about three months ago or
22 so.

23 Q. So that would be...

24 MR. BELL: I'm sorry, I didn't hear that.

25 THE WITNESS: About three months.

1 Q. (By Mr. Cohen) And we spent some time, is that
2 correct, discussing whether or not you were even going to come
3 on board; is that correct?

4 A. Right. There were some E-mails back and forth.

5 Q. Okay. And what was your motivation, then, to
6 participate in this case?

7 A. Well, my basic motivation is two things. Just because
8 I wanted to find out what's going on with this guy, interview
9 him, hear what his story was and try and see what that was all
10 about. And the second is basically to try and help you guys
11 understand what is going on.

12 Q. Were you retained privately or were you appointed by
13 the courts?

14 A. I'm, as I understand it, appointed by the court and
15 will be actually paid by the court.

16 Q. Very good.

17 MR. BELL: Excuse me. Did I understand he's
18 appointed by the court?

19 MR. COHEN: Yes.

20 MR. BELL: I'm sorry, I just didn't think I heard
21 that right. That's fine.

22 A. I'm not sure if that's the technically correct term,
23 appointed by the court.

24 MR. BELL: Yeah.

25 Q. (By Mr. Cohen) Doctor, do you use -- in your practice

1 do you use any special type of formats to do an initial
2 investigation of the client?

3 A. In the whole field of psychiatry and psychology in
4 general we have what are called psychological tests, structured
5 interviews, questionnaires, and they're standardized basically
6 pieces of paper that have a series of questions on them, and so
7 you give the person this either short or long questionnaire,
8 they fill it out, and there's standardized scoring, and then
9 there's the research literature that says this is either typical
10 of this disorder or it's not typical, it supports this disorder,
11 it doesn't support the disorder. And there's any area of the
12 field, whether it's substance abuse, depression, anxiety,
13 there's questionnaires like this and there's a set of
14 questionnaires like that in the dissociative disorders field,
15 which I then brought into the case.

16 Q. And, Doctor, are these -- are these -- is this a test
17 that's administered to the client?

18 A. Yes, loosely speaking, it's in the category of
19 psychological tests.

20 Q. And so there are three tests; is that correct?

21 A. There's more than three tests in existence. There's
22 three tests that I sent to you, which you then gave to Mr.
23 Harris.

24 Q. Okay. Now, you indicated that you -- you provided me
25 with the exam or the test; is that correct?

1 A. Correct.

2 Q. Doctor, is there any reason why you forwarded that
3 particular test to me rather than administer it yourself?

4 MR. BELL: I'm sorry. Thank you, Dr. Ross.

5 At this time, Your Honor, I'd like to see the
6 test so we can be able to review it so we won't take the jury's
7 attention -- take the jury's time.

8 Are you going to be basing opinions on the test?

9 THE WITNESS: A little bit.

10 MR. BELL: A little bit? Then I'd like to a
11 little bit see it, Judge.

12 THE WITNESS: I don't have them on me, they're in
13 my car. So if I could go get them at the break and we could
14 photocopy them at the break if you'd like.

15 MR. BELL: If it's all the same to the Court, I'd
16 like to have them at this time. It's going to save time, Judge,
17 if we could have them.

18 THE COURT: All right. Let's take a brief
19 recess. This is a pre-morning break. It will last about ten
20 minutes.

21 MR. BELL: Your Honor, just so that we -- any
22 materials you might have, notes or anything, anything you might
23 have.

24 THE COURT: You can step down and go to the
25 restroom. And you will get another break.

1 (Morning recess.)

2 -oOo-

3 (Open court, defendant and jury present.)

4 THE COURT: You may be seated.

5 Ladies and gentlemen, just in case there is any
6 confusion, to clear up that potential confusion, Dr. Ross has
7 not been appointed by the court to participate in this trial.
8 Mr. Cohen asked for and was granted a budget to use to help with
9 the defense of the case and I -- my presumption is that he has
10 hired Dr. Ross and will pay him using some or all of that budget
11 that he's been allowed by the court. And that's the extent of
12 the court's participation in selecting people to participate in
13 the fees.

14 MR. COHEN: May I proceed?

15 THE COURT: You may.

16 Q. (By Mr. Cohen) Dr. Ross, you utilized three different
17 testing formats for Mr. Harris; is that correct?

18 A. Yes, that's correct.

19 Q. And you provided those formats for the review of the
20 prosecution?

21 A. Yes.

22 Q. And, Doctor, would you discuss the first format that
23 was used.

24 A. The first questionnaire is called the DES,
25 Dissociative Experiences Scale, and it's been, I don't even know

1 exactly what the count is, but there's over 250 peer-reviewed
2 papers in which the DES and numbers from the DES have been
3 published. It's a very well-studied and reviewed questionnaire.
4 It's got 28 questions in it, and for each question it will say
5 something like sometimes people have the experience that, and
6 then it will list the experience, circle the number that shows
7 the percentage of times you have this experience. And there's
8 zero percent, 10, 20, up to a hundred percent. So the person
9 goes through that, they circle all those numbers, and then the
10 person who's scoring it adds the numbers up and then divides by
11 28 to get an average score, which can be anywhere between a zero
12 and a hundred.

13 And so this DES scale was developed as a screening
14 scale because it's very simple and quick to use. You can give
15 it to people in a clinic, people in a hospital, and if they have
16 a very low score, you're less suspicious they have a
17 dissociative order. If you have a high score, then the doctor
18 is more suspicious of a dissociative disorder. It doesn't prove
19 anything in and of itself, it's mainly designed just to increase
20 the likelihood that you have to look carefully for a
21 dissociative disorder if there's a high score.

22 Q. So the first test that is administered is a
23 pre-screen; is that correct?

24 A. Right. It's called a self-report measure, which means
25 the person fills it out themselves, hands it back to the

1 interviewer.

2 Q. And is this a standard format that the pre-screening
3 procedure, is that standard protocol in conducting this type of
4 an investigation?

5 A. Yeah, it's very common.

6 Q. And the second test that was administered?

7 A. There's two other ones, I'm actually not sure which
8 one he completed first and which one second. There is the MID,
9 Multidimensional Inventory of Dissociation, and it's a large
10 number of questions that are in a true/false format, and the
11 person runs through all of those, circling or checking off true
12 or false, and then all of that is fed into a computer and the
13 computer generates a report and a profile. And the MID has been
14 published in peer-reviewed journals and is quite well known and
15 widely used in the field.

16 The third one is the DDIS, the Dissociative Disorders
17 Interview Schedule, which I developed back in the '80's, which
18 has been the subject of several dozen studies published in the
19 peer-reviewed literature, and its purpose -- it's called a
20 structured interview. So it's basically taking a psychiatric
21 interview and making it standardized so that if somebody's doing
22 research in China or Turkey or the United States, using the
23 translated version they ask exactly the same questions and
24 exactly the same sequence, exactly the same scoring rules, so
25 you get a standardized interview. And it incorporates DSM

1 criteria for several different types of disorders, all of the
2 dissociative disorders and several other groups and symptoms and
3 inquires about childhood physical and sexual abuse. So that was
4 administered in a self-report format.

5 So there's the interviewer-administered version, where
6 the interviewer asks all the questions and checks out the
7 answers and then there's a version where the person reads
8 through it themselves and checks off the boxes.

9 Q. Now, Doctor, did you administer these tests?

10 A. No. I E-mailed them or physically mailed, one or the
11 other, to you and then you took them to the jail, Mr. Harris
12 filled them out, you brought them back, sent them to me.

13 Q. Okay. Doctor, would there be any need for me to have
14 any conversation with the defendant to take -- for him to take
15 this test?

16 A. Other than just saying here's some tests that I want
17 you to complete, would you please do so, there's no other
18 instructions required.

19 Q. All three types of tests have gone through peer
20 review?

21 A. Correct.

22 Q. And they are accepted within the psychological
23 community?

24 A. The Dissociative Experiences Scale and the
25 Dissociative Disorders Interview Schedule are included in a

1 textbook called Handbook of Psychiatric Measures published by
2 the American Psychiatric Press, and they were included in both
3 the first edition and the second edition and it's basically
4 quite a thick book that includes a huge chunk of all of the
5 tests out there for all these different psychiatric disorders
6 and there is a little literature review included in each
7 section. So it's been officially accepted by the press of the
8 American Psychiatric Association, information from the
9 structured interviews has been published repeatedly in the
10 American Journal of Psychiatry, which is the official journal of
11 the American Psychiatric Association. So it's a pretty thorough
12 official approval.

13 Q. And, Doctor, you provided the data and scoring from
14 that test to the State of Texas; is that correct?

15 A. Just now I did, yeah.

16 Q. Very good.

17 Based on this initial criteria, the standardized
18 testing, if you would, did you come to any conclusions based on
19 that?

20 A. Yes, I did.

21 Q. And what were they, please?

22 A. They're in this report that we all have a copy of now.
23 And the score on the Dissociative Experiences Scale was 82.5, I
24 think it was, yeah, 82.5. So in a published series of multiple
25 personality cases that have been clinically diagnosed, the

1 average score on this measure is low 40's to low 50's. Some
2 people have lower scores, some people have higher. But the
3 average for multiple personalities, which are the same thing as
4 dissociative identity disorder, is low 40's to low 50's. The
5 average score in the general population, if you just give it to
6 people who aren't psychiatric patients at all, they're just out
7 in the world, in Canada is about 11. And so the score of 82.5
8 is very high. And it immediately raises the question of whether
9 he's exaggerating symptoms. It's consistent with a -- some kind
10 of complicated dissociative disorder, but the scores are just a
11 little bit too high.

12 For instance, I can read the exact wording. One
13 question, Number 23...

14 MR. BELL: Can you please tell me what page, if
15 you don't mind.

16 THE WITNESS: Two.

17 A. The Question Number 23 reads: Some people sometimes
18 find that in certain situations they're able to do things with
19 amazing ease and spontaneity that they usually -- that usually
20 would be difficult for them; for example, sports, work, social
21 situations, et cetera. Circle a number to show what percentage
22 of the time this happens to you. And he circled a hundred
23 percent. So if he is able to do it a hundred percent of the
24 time, it can't be something that he isn't ordinarily able to do.
25 I mean, it's contradictory, it doesn't make sense. So

1 clearly -- and there's about six items that he answered, or nine
2 items where he answered a hundred percent. So it is just
3 logically impossible and so it appears that he's exaggerating
4 some of the symptoms, but, nevertheless, he does appear to have
5 a lot of dissociative symptoms. So that was the conclusion from
6 that scale.

7 Q. (By Mr. Cohen) Doctor, let me ask you a question.
8 Could exaggeration also possibly mean that he just simply didn't
9 understand the question?

10 MR. BELL: Your Honor, I'm going to object to the
11 leading form of the question. Let the doctor say what it means,
12 please.

13 I apologize. I withdraw leading. Lead your
14 expert. I apologize, Judge. Go ahead.

15 A. So the possible ways to account for this are the
16 unusual occasion where a person genuinely has that high score
17 and that's just the reality of the person, that the person is
18 either consciously or unconsciously exaggerating the symptoms,
19 or they just don't understand the questions. And there's no way
20 for me to tell just from looking at the questionnaire.

21 Q. (By Mr. Cohen) So if the candidate, if you would,
22 fills this out and simply didn't understand the question, that
23 would sque the report; is that correct?

24 A. It could sque either up or down or in any direction.

25 Q. Are there enough series of questions, though, that

1 you're satisfied with the validity of that test?

2 A. I know that the test in and of itself has validity
3 from the psychiatric literature. Whether his individual
4 response is valid, I can't tell just by looking at the
5 questionnaire.

6 Q. And that would be true of any patient that would be
7 conducting this interview on?

8 A. That would be true for any patient with any disorder
9 in any type of questionnaire.

10 Q. Doctor, after you reviewed and looked at this
11 testing... About how many series of questions is there in total
12 that Mr. Harris filled out combined in the three tests?

13 A. About -- somewhere in the ballpark of 400, I guess,
14 300.

15 Q. Is this a timed exam?

16 A. No, there's no time limit on it.

17 Q. It's a self-administered exam; is that correct?

18 A. The DES, yes.

19 Q. There is no need for me to actually present questions
20 to him?

21 A. No. For all three that's true. You just hand him the
22 paper, would be the normal procedure, he fills it out, hands it
23 back to you.

24 Except for the DDIS, which has the two versions. In
25 one version the interviewer asks all the questions and checks

1 off the responses. In the self-report version the person reads
2 the questions and checks them off, which is the one that Mr.
3 Harris did.

4 Q. And which one did...

5 A. The self-report.

6 Q. The self-report. So there would be no influence or
7 guidance, then, from the person administering the test?

8 A. Correct.

9 Q. Doctor, after the completion of this first battery of
10 exams, did you want to proceed on with the case?

11 A. I was a little bit back and forth as to whether I did
12 or didn't, but obviously then I decided I would.

13 Q. And why is that?

14 A. There's a couple of basic reasons. One is I don't do
15 very much criminal expert witness work, period. Another issue
16 is whether there was any funds for me to get paid or not. And
17 another issue was do I want to take the flack and the perception
18 that I'm somehow helping a rapist get off.

19 Q. Doctor, you had indicated that there are approximately
20 five subsets within dissociative disorders.

21 A. Right.

22 Q. And along -- and this particular examinations that you
23 had Mr. Harris take is specifically designed for dissociative
24 disorders?

25 A. Correct.

1 Q. Will that test also show any other issues, such as
2 schizophrenia, such as psychotic issues?

3 A. Both the MID and the DDIS can make some additional
4 diagnosis. The MID report, which is generated by the computer,
5 says that the results are consistent with dissociative identity
6 disorder, which is multiple personalities; PTSD, which is post
7 traumatic stress disorder; and somatization disorder, which is
8 basically a whole bunch of psychosomatic symptoms.

9 The DDIS can make diagnoses of somatization disorder,
10 depression, substance abuse and borderline personality disorder,
11 which are other DSM diagnoses. And it inquires a bunch about
12 other symptoms without making a diagnosis.

13 And so he came up with dissociative identity disorder,
14 borderline personality disorder and depression, if I remember
15 right.

16 Q. Doctor, on those three areas that you identified, the
17 DID, the borderline and the depression, is there one prominent
18 mental illness that you have come to a conclusion on as far as
19 affecting Mr. Harris?

20 A. Based on these three interviews, my interview of him
21 on August 5th and observing his testimony yesterday, my
22 conclusion is that he has dissociative identity disorder, which
23 is the same thing as multiple personality disorder.

24 Q. Doctor, again, let's -- again, there were five major
25 areas within dissociative disorders, I guess actually there are

1 five subsections. So you're certainly identifying the DID; is
2 that correct?

3 A. Correct.

4 Q. Any of the other subareas?

5 A. Well, the rules in the DSM are if you have
6 dissociative identity disorder, then you can't have one of the
7 other dissociative disorders because it's not really separate,
8 it's just part of the dissociative identity disorder.

9 Q. So if a hypothetical where we're dealing with an
10 amnesia type of situation that's associated -- in a
11 hypothetical, would concepts of dissociative amnesia or
12 dissociative fugue be applicable?

13 A. Dissociative amnesia and dissociative fugue are very
14 common in people with dissociative identity disorder, but since
15 they're part of that whole package, we don't make a separate
16 diagnosis.

17 Q. So that would be part of it?

18 A. Right.

19 Q. If we could, Doctor, let's talk a little about
20 dissociative amnesia since that is a subpart. And what is that,
21 actually?

22 A. There's an actual diagnosis, dissociative amnesia, and
23 it's -- I may not have the wording exactly right, but it's
24 basically inability to recall important personal information
25 that is too extensive to be explained by ordinary forgetting and

1 it's often linked to a traumatic event.

2 And then it can't be caused by like a head injury or
3 being drunk or something like that. So it's not being able to
4 remember. And it can't be just I forgot where I put my pen last
5 week, it has to be some serious, big amount of information that
6 you just wouldn't ordinarily forget. For instance, if I
7 completely forget that I ever came to Edna to testify next week,
8 nobody's going to say, well, that's just ordinary forgetting.

9 So there is this report of amnesia and you make a
10 judgment that this is just too much to be explained by ordinary
11 forgetting. You don't have to say exactly what it is caused by
12 because basically we don't know the basic causes of psychiatric
13 symptoms most of the time, you just have to say too big to be
14 explained by ordinary forgetting, not due to some brain injury
15 that you can diagnose.

16 And for all psychiatric disorders you have to make a
17 clinical judgment that this is not just faking. And that's a
18 clinical judgment, there's no x-ray to prove a person is faking,
19 there's no x-ray to prove that they aren't faking. And that's
20 kind of the state of the art in psychiatry.

21 Q. Based on your interview, your -- here at the county
22 jail and your observations and listening to Mr. Harris's
23 testimony, can you illustrate to the jury examples of the
24 amnesia.

25 A. He didn't exhibit amnesia in front of me because when

1 Bobby came out to talk, after Bobby went back inside and Billy
2 was there again, Billy said that he was kind of hovering up
3 above, listening to the whole thing and that he had no amnesia
4 for that conversation. So I didn't get a claim of current
5 amnesia during the conversation. What I got was what we heard
6 yesterday, which -- somewhat chaotic and confusing description
7 of he remembers most of what Bobby does, he talks to Bobby, he
8 has to stay on top of what Bobby is doing because they all live
9 in the same body, but some of the time Bobby doesn't let him
10 know what's going on. That was the account that he gave me in
11 person, which was pretty much similar to what he said yesterday.

12 Q. Doctor, dissociative fugue, that's also a subsection.

13 A. Right.

14 Q. Please provide an illustration to the jury of your
15 observations of whether or not you could diagnose that as an
16 issue involved in Mr. Harris.

17 A. He didn't describe any dissociative fugue, which, to
18 repeat, is where you suddenly take off and go to a new location,
19 often out-of-state, and you completely lose all memory for your
20 past life and then you're either confused about who you are or
21 you develop a new identity. He never described that.

22 Q. Doctor, he testified as to leaving Houston to come to
23 Edna that day and described that it was Bobby. How could one
24 person drive a vehicle but being controlled by somebody else?
25 Explain that.

1 A. Well, in one sense it's kind of a psychological
2 mystery and in the other sense it's no mystery at all. I mean,
3 this guy's body knows how to drive a car and whoever he thinks
4 he is or whichever identity is in control, the body and the
5 brain know how to drive the car, and so when you know how to
6 drive a car or ride a bike you can just kind of hop on and do it
7 without even thinking about it. So the -- these different
8 identity states, they all speak the English language, for
9 instance; they all know how to read, they all know how to drive
10 a car. They didn't all learn the English language separately
11 and independently, that's kind of shared skills and information.

12 Q. Mr. Harris talked about Bobby trying to kill him in
13 the vehicle. Can you -- are these identities dangerous to
14 themselves?

15 A. The program that I have been working at in Dallas
16 since 1991, about half the people admitted there have multiple
17 personalities and half have other kinds of trauma and problems.
18 So that's a large number of people over 20 years. And the most
19 common reason for admission is acutely immediately suicidal,
20 recent overdose, cutting on yourself. And so people with
21 dissociative identity disorder, the huge majority of them are
22 quite destructive towards themselves and it's very common for
23 these different parts to be wanting to kill each other off.
24 Sometimes, not caring that the body's going to die, sometimes
25 one part thinks it can kill the other part and the other part

1 will literally physically die but the murderer part will just be
2 fine and carry on with life. So they have all these highly
3 distorted, non-accurate beliefs about I can cut on his arm and
4 my arm is unaffected. I can kill him and it won't bother me.
5 That's all very common.

6 Q. Doctor, the diagnosis of the multiple personality
7 disorder, the DID, as a population, the general population here
8 in the United States, about how many people have been diagnosed
9 with that?

10 A. Well, there's kind of two separate questions. One is
11 how many people have it and how many people have been diagnosed.
12 The number of people that have been diagnosed and treated
13 clinically we don't have an exact count, but it would be -- over
14 the last 20 years it would be tens of thousands. The number of
15 people in the general population just out in the world who have
16 dissociative identity disorder, I did one study in Canada using
17 this DDIS that Mr. Harris completed. There's a study in Turkey,
18 done a study in China, and so far this is just the information
19 that we have in the field, it's not the final final word. It
20 looks like about one percent of people in the general population
21 actually meet the criteria for dissociative identity disorder on
22 this structured interview.

23 Now, that includes -- which is true for all mental
24 disorders. If you go out in the world and you see how many
25 people have panic disorder, it's around about two percent,

1 roughly. But that's going to include a lot of cases that are a
2 lot milder than the cases you see in treatment. So if you have
3 an anxiety clinic and you specialize in panic disorder, this is
4 not hard to figure out the most severe, the most distressed and
5 disabled people are going to come for treatment. There's a lot
6 of people out in the world who have panic disorder but it's a
7 lot milder than what we see in our clinical work.

8 Same logic applies to schizophrenia, depression, and
9 to dissociative identity disorder. So the one percent in these
10 small number of studies includes a lot of cases that look a lot
11 milder than what I see clinically or the picture I see of Mr.
12 Harris.

13 The number of people who have severe clinical
14 in-patient level dissociative identity disorder, we know if you
15 just look at psychiatric in-patients in general, so they're not
16 in a specialty unit, they're not being treated for trauma,
17 they've never had a diagnosis of a dissociative disorder, and
18 you go in and there's these structured interviews and do some
19 research interviews, there's 10 or 12 studies now in seven or
20 eight different countries where, when you add it up, about
21 three, three-and-a-half percent of general adults, psychiatric
22 in-patients come up with a diagnosis of dissociative identity
23 disorder on their research interviews, they don't know that they
24 have it, they don't claim that they have it, nobody ever told
25 them that they have it, they've never been treated for it. So

1 that's about 3.5 percent of general adult patients average over
2 these 10 or 12 studies in seven or eight different countries.

3 The number of people out in the world who have that
4 serious multiple personality is still kind of up in the air, so
5 I would say, best guess, based on the literature and my
6 experience, would be in the ballpark of one out of 500 or one
7 out of a thousand people, which is really a ballpark guess,
8 educated ballpark guess.

9 Q. The manifestation of multiple personalities in
10 different cultures, how do different cultures interpret some of
11 these manifestations?

12 A. I've done a little bit of research along those lines,
13 but the basic answer is that just like bipolar mood disorder or
14 substance abuse or eating disorders or depression have been
15 around for a long time, since before there were any
16 psychiatrists, it appears that dissociative identity disorder
17 has been around for a long time, it just hasn't been called
18 that. So schizophrenia has only been called schizophrenia since
19 1911, this Swiss psychiatrist invented the word schizophrenia.
20 Before that it was called dementia praecox, p-r-a-e-c-o-x, which
21 means kind of early onset of dementia. So it wasn't that
22 schizophrenia never existed before, it was just that it was
23 either a different name or no name.

24 For dissociative identity disorder, in many cultures
25 around the world, I'm going back hundreds of years in our

1 culture, people who switched to another entity and all of a
2 sudden acted strange and different were thought to be possessed.
3 So it's kind of a possession model.

4 But there's lots of research in anthropology that
5 there's literally hundreds of cultures around the world where
6 people exhibit this behavior. They're just their normal selves,
7 they're kind of going along, and all of a sudden somebody else
8 comes out, takes over the body, acts different, speaks
9 different, different tone of voice, then there's -- we call that
10 a switch -- the switch happens, that entity goes back inside,
11 and the person may have no memory for it at all or kind of a
12 fuzzy memory or may have a normal memory for what went on, but
13 they feel like when that other entity was in control it wasn't
14 them, they couldn't stop it, they couldn't start it. And so
15 that's, in many cultures, interpreted as a possession state. Of
16 course we think it's a psychological problem, not actually a
17 demon or another person taking over the body.

18 Q. Are there still certain areas of the world that
19 interpret this multiple personality as possession?

20 A. Yeah. One area of the world where that's not uncommon
21 is Texas. So I've actually published a paper on a series of
22 people with DID who have had exorcisms from their ministers and,
23 of course, if the exorcism worked, I wouldn't see them. So I
24 always see people where they tried to exercise the other parts
25 and it just didn't work and it actually caused a lot of conflict

1 between the parts because the part that's getting exorcised
2 isn't very happy about it and is angry at the priest and angry
3 at the out-front person and that increases the conflict. So
4 attempted exorcisms in people with multiple personality are
5 actually fairly common in Texas. I've talked to dozens of
6 people who have been through that. And I have actually some
7 research in press about that.

8 Q. So there are actually some religious groups within the
9 state of Texas that interpret what you would think would be
10 multiple personality as possession?

11 A. Right. And these are not like fringe cults, these are
12 mainstream religious organizations with large churches and
13 funding.

14 Q. And examples of those churches, please.

15 A. Southern Baptist, people have attempted exorcism on
16 many patients that I've seen. So this is not a fringe thing at
17 all, it's just a different world view.

18 Q. It's a different world view, it's a different
19 interpretation; is that correct?

20 A. Right.

21 Q. Could you provide the jury, possibly, with some
22 examples of how an individual would behave, let's say from the
23 American, let's say from a Texas culture. What would they see,
24 what manifestations, what ideas of possession would they see?

25 A. Well, I published a series of...

1 MR. BELL: Object as irrelevant, Your Honor.

2 MR. COHEN: It's completely relevant, Judge, and
3 we're talking about the cultural influences and interpretations.

4 MR. BELL: To say it's completely relevant, it's
5 a conclusion. I'm just saying it's irrelevant to the opinions
6 he's giving in this case, Your Honor.

7 THE COURT: The question was what are the
8 manifestations that might be observed?

9 MR. COHEN: From a cultural aspect here in Texas.
10 We've discussed Texas and I think the jury needs to be able to
11 see and hear.

12 MR. BELL: Again, I'd ask for a legal objection.
13 My legal objection, Your Honor, is...

14 THE COURT: I think that a cultural opinion is
15 not relevant to his professional opinion.

16 Q. (By Mr. Cohen) Doctor, do issues of culture come into
17 formation in the way you diagnose?

18 MR. BELL: May I take the witness on voir dire
19 since we're going to have a relevancy question, Your Honor?

20 THE COURT: Okay.

21 VOIR DIRE EXAMINATION

22 BY MR. BELL:

23 Q. The issuance of cultures and how they think and how
24 they describe the churches beliefs, Southern Baptist or
25 whatever, is that in any way scientific methodology that's been

1 subjected to peer review?

2 A. No.

3 MR. BELL: Object as irrelevant, Your Honor.

4 A. Well, hold on. I want to amend my answer. So... Is
5 that okay?

6 MR. BELL: It's just a yes or no.

7 At this time, Your Honor, it's not part of the
8 scientific methodology...

9 Q. (By Mr. Bell) It's not been subjected to peer review,
10 correct? It's not been subjected to percent of error, correct?

11 A. That's not correct.

12 Q. That's not correct?

13 A. In one sense. Which I would be happy to explain.

14 Q. I'm asking you this. Is the cultural that you're
15 trying to speak of, the exorcisms or whatever, are those
16 subjected -- in formulating opinions about DID and the opinions
17 you're expressing today, are those subjected to peer review and
18 subjected to percent of error?

19 A. Yes.

20 Q. Tell me what those are.

21 A. There's a series of studies.

22 Q. I don't want a series. I want a study with the name,
23 the author, the date and the publication.

24 MR. COHEN: Your Honor, if I may approach the
25 witness I can probably provide that to him.

1 A. Ross, Norton and Wozney, Canadian Journal of
2 Psychiatry 1989 would be a good example where, if I remember the
3 number correctly, about 35 percent of 236 cases of multiple
4 personality there was description of an alter personality
5 identified as a demon.

6 Q. (By Mr. Bell) Do you think that applies to the
7 exorcisms in the culture you're speaking about?

8 A. There's a science called anthropology, which is in the
9 social sciences department...

10 Q. Can I pardon. On that last one can you state the
11 name, author and the publication of the last one you gave?
12 What's the name?

13 A. The one I'm just about to talk about now or the Ross,
14 Norton?

15 Q. Well, what's the name of that article?

16 A. Okay. Which article are you asking about?

17 Q. You just said Ross, Norton, what's the name of that
18 article?

19 A. Oh. Multiple Personality Disorder and an Analysis of
20 236 Cases.

21 Q. And who was the author?

22 A. Ross.

23 Q. And what was the publication year?

24 A. 1989.

25 Q. May I see a copy of that learned treatise?

1 A. I don't have it with me.

2 Q. You don't bring learned treatises to be able to
3 support your theories?

4 A. No.

5 MR. BELL: Same objection, Your Honor.

6 THE COURT: I'll let you go just a little bit
7 further but you need to tie it in pretty quickly.

8 CONTINUED DIRECT EXAMINATION

9 BY MR. COHEN:

10 Q. Dr. Ross, within the DSM-IV in the subsection...

11 MR. COHEN: May I approach the witness, please?

12 THE COURT: You may.

13 (Counsel and the witness conferring.)

14 A. So he's showing me a section of the DSM where, in the
15 text about dissociative identity disorder, it's discussing
16 culture and other issues.

17 MR. BELL: May I just ask a couple of voir dire
18 questions on that for the methodology, Your Honor?

19 THE COURT: Yes.

20 VOIR DIRE EXAMINATION

21 BY MR. BELL:

22 Q. Is it your opinion... No, strike that.

23 Is it your testimony that the DMS-IV -- DSM is not
24 just a category of disorders, but if it's in the DSM that means
25 it's been subjected to peer review, it has passed the scientific

1 community, it's been subjected to percent of error and it is
2 generally accepted as legitimate in the scientific field. Is
3 that what you're saying?

4 A. For virtually all the disorders there may be...

5 Q. I didn't ask you. For this DID, is that true?

6 A. Yes, that's true.

7 Q. What's the error rate?

8 A. The error rate for what?

9 Q. What's the error rate for you diagnosing different
10 alters that are occurring during a criminal episode of being
11 able to identify which alter is doing what? What's the error
12 rate on that?

13 A. The Dissociative Disorders Interview Schedule
14 identifies about 94.5 percent of cases as dissociative identity
15 disorder. The rate of agreement between the Dissociative
16 Disorders Interview Schedule, the Structured Clinical Interview
17 for DSM-IV...

18 THE REPORTER: I'm sorry, you're going to have to
19 say that again.

20 A. Structured Clinical Interview for DSM-IV...

21 MR. BELL: Object and move to strike, Your Honor,
22 as non-responsive.

23 Q. (By Mr. Bell) Will you listen to my question, I'll do
24 it real quick. I'm trying...

25 MR. COHEN: Wait a minute, Judge.

1 A. You're asking for numbers, I'm trying to give them to
2 you.

3 MR. COHEN: It's nothing about non-responsive,
4 he's trying to answer the question. Give him a chance.

5 MR. BELL: I have a specific question that he's
6 not answering.

7 Q. (By Mr. Bell) I'll rephrase it if it will help, Dr.
8 Ross.

9 A. All right.

10 Q. I'm talking about your opinions that you're going to
11 express or have expressed about you have the ability to know
12 when an alter changes, how it changes, who's performing which
13 acts on which occasions, that. You know what I'm talking about?

14 A. Okay.

15 Q. And, say, even a serial rapist. Give me the name of
16 the author, the publication, the date of anybody who has given a
17 peer-reviewed article on the percent of error that you may be
18 wrong about that.

19 A. For identifying that a switch is taking place?

20 Q. That wasn't my question.

21 A. Okay, I'm not clear on your question.

22 Q. That an alter is switching and -- months ago at rape
23 scenes, and that you have the ability to know which alter it is
24 and who's committing which of those crimes, which of the alters.
25 Give me that article that supports that theory.

1 A. There's no scientific way to take an x-ray of what
2 happened in somebody's mind three months ago.

3 Q. So there are no scientific?

4 A. Correct.

5 Q. Okay.

6 THE COURT: Well, now the Court needs a point of
7 clarification. Are we still contentious about the -- what was
8 it?

9 MR. COHEN: The cultural issues.

10 THE COURT: The cultural issues or have we moved
11 to a new issue?

12 MR. COHEN: Well, it certainly sounds like Mr.
13 Bell would like to start his cross examination now, but if I may
14 continue, Judge.

15 MR. BELL: Your Honor, I'm going to ask that the
16 side bar stop. I asked Mr. Cohen a second ago. If he has a
17 legal objection, fine. If he wants to play side bar, we'll do
18 it. I'm trying not to...

19 THE COURT: I'll sustain the objection to the
20 side bar.

21 But I still don't know the answer to my question.
22 Are we still on the -- are we still dealing with me trying to
23 figure out whether the cultural impact is significant or
24 relevant.

25 MR. BELL: At this point, Your Honor, I don't

1 care. He can ask about cultural impacts.

2 THE COURT: Okay.

3 CONTINUED DIRECT EXAMINATION

4 BY MR. COHEN:

5 Q. Let's go back to our Texas illustration, if we may,
6 please. Interpretation of so called demonic acts, visa vie
7 multiple personality. Can you illustrate, based on your
8 research, these so called demonic acts.

9 A. It's not so much demonic acts as just -- it's clear in
10 clinical experience and it's clear in a set of publications that
11 in DID altered personalities are not uncommonly identified as
12 being demons. They're identified as being little children, as
13 being adults of different gender and not uncommonly identified
14 as being demons. Now, the acts that those altered personalities
15 have done, there's not specifically literature on that.

16 Q. What about things such as speaking in tongues?

17 A. Speaking in tongues would be somewhat uncommon in DID
18 but not unheard of.

19 Q. Doctor, the DID, is that applicable -- if we go by
20 gender, we've got culture, gender, what is the balance between
21 male and females being diagnosed with DID?

22 A. Diagnosed cases, in quite a large number of series of
23 cases now it's about nine women for every man clinically
24 diagnosed and reported in the literature. But in the studies
25 where we screen general adult in-patients or screen in the

1 general population, it's more like one-and-a-half to two women
2 for every man. So it appears that the gender ratio's in the
3 ballpark of 1.5 or two to one, about twice as many females as
4 males.

5 Q. And, Doctor, what about as far as children are
6 concerned, adults versus minors, and diagnosis?

7 A. There's a much, much smaller literature on children
8 and we have really a big shortage on numbers.

9 MR. BELL: I have to object to the relevance of
10 children. What relevance is that, Your Honor?

11 THE COURT: I'll sustain that objection.

12 Q. (By Mr. Cohen) Would it be fair to say that, Doctor,
13 that DID is cross-gender, both genders?

14 A. Yes.

15 Q. And all age groups?

16 A. Yes.

17 Q. Doctor, when conducting your actual one-on-one
18 examination with Mr. Harris here in the county jail, what were
19 you -- what were you looking for to further your initial testing
20 of him?

21 A. Well, first of all I was just looking for what he was
22 going to say and what my impressions of him were, and then
23 basically I wanted to figure out does he appear to have
24 dissociative identity disorder and, if so, how is that tied in
25 to the crimes, what's the relevance of that to the crimes.

1 THE COURT: Okay. Let's take our second morning
2 break at this time.

3 We'll break for about 15 minutes. If you'll be
4 back in the jury room at five minutes after 11:00, we'll proceed
5 at that time.

6 (Morning recess.)

7 (Open court, defendant present.)

8 THE COURT: Is the State ready?

9 MR. BELL: Yes, Your Honor.

10 (Jury present.)

11 THE COURT: You may be seated.

12 Mr. Cohen.

13 MR. COHEN: May I proceed, Your Honor?

14 THE COURT: You may.

15 Q. (By Mr. Cohen) For the record, are you the same Dr.
16 Ross that was just testifying earlier prior to the break?

17 A. Yes.

18 Q. Dr. Ross, about how much time, physical time did you
19 spend during your interview with Billy Harris?

20 A. Three hours and 25 minutes.

21 Q. And, Doctor, there were some questions dealing with
22 hypnosis. Did you at any time use hypnosis on Billy Harris?

23 A. No.

24 Q. Were you successful, though, in bringing out any of
25 the entities within Billy Harris?

1 A. I talked to Bobby for I think it was about 35 minutes.
2 Let's see. Yeah, 11:10 to 11:45, 35 minutes. And the way that
3 worked was basically exactly the same as you saw Mr. Bell do
4 yesterday. There's no particular procedure or rigamarole, just
5 a straightforward request could Bobby come and talk and Bobby
6 came and talked. So I didn't really do anything procedurally
7 different from what Mr. Bell did yesterday.

8 Q. Did Bobby speak to you in a similar voice that Bobby
9 spoke here in the courtroom?

10 A. It's pretty similar, probably a little bit less loud.

11 Q. Doctor, when entities or personalities -- altered
12 personalities come about, do they have to be male?

13 A. No. There's all possible combinations. About
14 two-thirds of people with DID, which is dissociative identity
15 disorder, have an alter personality identified as being the
16 opposite gender.

17 Q. Were you able to identify any female personalities
18 within Billy Harris?

19 A. No.

20 Q. There was considerable talk about a crack addict
21 transvestite that Billy made contact with. Based on your -- his
22 discussion and his testimony to this crack addict, how did you
23 interpret that?

24 A. I think that's a confusing, unknown reality, which is
25 true of a lot of his story. Was there actually a transvestite,

1 did that person actually exist separately, did he actually have
2 a conversation with that person? Many of these things are
3 confusing and mysterious.

4 Q. You identified, I believe, in your report David?

5 A. Correct.

6 Q. Who was David?

7 A. Well, it's the same as we've heard previously. I
8 talked directly with Billy and Bobby, so Billy and Bobby told me
9 about the other parts. I didn't actually speak directly to any
10 of the other parts.

11 And, David, I don't think that Billy actually told me
12 that David's a dog. He told me, though, that David's been
13 around for a long time, as he said yesterday; that he was
14 probably involved in the sexual abuse as an adolescent, but
15 Billy didn't really realize it was David, he just thought that's
16 kind of me or something weird about me. So he's been sort of
17 hazily aware of him since adolescence, this more clear-cut --
18 there's David, he's a dog, he did the rapes, he's been aware of
19 that for a number of years now.

20 Q. Doctor, the issues of trauma, how does that play into
21 development of multiple personality?

22 A. Well, in a big, big majority of cases, like in
23 published series, 95 percent of people with multiple personality
24 disorder and several different studies, it ranges from about 88
25 percent to 95 percent, report either physical abuse or sexual

1 abuse in childhood or both. And just clinical work with people
2 with DID, they commonly, commonly, commonly report
3 overwhelmingly abusive, chaotic, violent families, a loss of
4 parents through death, drugs, alcohol, imprisonment. So just a
5 lot of violence, a lot of chaos, a lot of abuse, a lot of
6 neglect. That is the standard account that we get from people.

7 Q. Doctor, you heard Mr. Harris talk about Cindy and
8 Tony.

9 A. Correct, which he told me about in my interview.

10 Q. And he indicated that he met Cindy while she was a
11 teacher. And the State said they had investigated that and
12 there was no one named -- no one that they could find to
13 identify. Is that something that concerns you?

14 A. Well, it concerns me in that I would like to know
15 what's actually going on there, so my questions about it would
16 be -- well, first of all, I would like to know do we have actual
17 records proving that he was at that school, that would be the
18 first question. Do we have records proving that there was a
19 music teacher at that school and what was the music teacher's
20 name.

21 So the victim in Edna, he told me her name is Jennifer
22 Wilson. There appeared to be confusion yesterday about what the
23 name of one of the prostitutes was.

24 So he's told the incorrect names for people. So it
25 could be that there really was a music teacher who really did

1 abuse him, that all actually happened and her name was something
2 similar to Cindy Polanski but not exactly. It's possible that
3 it all happened but she had a completely different name. And
4 it's possible that none of it happened.

5 So as a clinician or as an expert witness or even as a
6 psychiatric researcher, you can't prove that it did happen and
7 you can't prove it didn't happen just by doing psychiatric
8 interviewing. There's got to be some sort of outside proof one
9 way or the other and that's way outside my resources to go and
10 search out all that evidence from childhood.

11 Q. Doctor, even if you were successful to find somebody
12 named Cindy, what would be the probability of her saying, yes,
13 I...

14 I'll withdraw that question.

15 The issues dealing with, according to Billy, the
16 sexual -- would you agree that he was sexually abused by
17 these -- Cindy and Tony?

18 MR. BELL: Objection, Your Honor. No way for him
19 to know that. He's just stated that.

20 MR. COHEN: That would be based on the -- on the
21 hypothetical. We'll use this as a hypothetical, then.

22 THE COURT: I think you can ask him to
23 hypothetically assume that he was, but he just said there's no
24 way he can prove or disprove it, so you can't ask him if he...

25 MR. COHEN: We'll just assume, hypothetically

1 assume.

2 MR. BELL: And I would like to add to my
3 objection he's stated on the record that he's made no
4 independent investigation or determination or even checked to
5 see if it's true.

6 THE COURT: This is going to be a hypothetical
7 question assuming those facts.

8 MR. COHEN: Very good.

9 MR. BELL: Then do we assume that there's going
10 to be proof, Your Honor, because hypotheticals are supposed to
11 be based on facts that are going to be proved? You can't just
12 make up hypotheticals and ask somebody... If they can't
13 scientifically prove it and they don't have any way to
14 individually check it and prove it scientifically, you can just
15 create hypotheticals on that. The hypotheticals I've used up to
16 this point I'm going to prove with facts. This is just -- he
17 said there's no way to do it scientifically.

18 THE COURT: Okay, I'll sustain the objection.

19 Q. (By Mr. Cohen) There was no doctor present at the
20 crime scenes; is that correct?

21 A. Correct.

22 Q. Based on -- based on the origins and the trauma that's
23 associated with DID, would a situation involving extreme
24 exposure to pornography as a child, would that have a basis for
25 the development of multiple personality disorder?

1 A. Multiple personality commonly arises from severe,
2 extreme trauma, abuse and neglect.

3 Q. And would a child or an individual that was exposed to
4 particularly animal pornography, how would that affect?

5 A. Obviously it would be highly disturbing and traumatic
6 to any child.

7 Q. The feminization, if you would, of a child, a boy to
8 be feminized during a course of pornography, how would that
9 affect?

10 A. That's just going to disturb the person's identity and
11 their own sexuality.

12 Q. What do you mean by disturbing his identity and
13 sexuality?

14 A. Am I male, am I female, am I just an object for use by
15 other people, do I have any independent rights, am I lovable.
16 All these things just get thrown up in the air in a chaotic
17 mess.

18 Q. What about the rejection of an individual, a child,
19 and the affection shown to an animal?

20 A. I'm not exactly clear what your question is there.

21 Q. Rejecting a child or a person, but the other party
22 favoring an animal?

23 A. Well, obviously that's going to hurt your feelings, be
24 disturbing and make you think that you're less valuable than a
25 dog.

1 Q. Less valuable than a dog.

2 The manifestations that Billy spoke about of David,
3 could that lead back to some of your discussions with him?

4 A. How do you mean?

5 Q. As far as his childhood, explanations to you?

6 A. It seems likely, highly likely to me that he had some
7 kind of abusive, traumatic childhood. Exactly which stories are
8 accurate, which stories aren't accurate, as I've said, I can't
9 prove or disprove. But the stories that he tells are certainly
10 consistent with having DID and having a lot of rage and a lot of
11 disturbed sexuality.

12 Q. Doctor, the domination, or are there different
13 personalities within -- within the person that become more
14 dominant or secondary?

15 A. Well, there's a term in the field the host
16 personality, which just -- we had to have some kind of term so
17 that got invented. And that's just the person who's in control
18 of the body most of the time these days. And sometimes the host
19 personality has really been the person all the way back to
20 childhood. And sometimes there's -- the host personality
21 currently who's only been the host personality for the last five
22 years. So it varies from case to case. But the host
23 personality is just one of the parts of the whole person and
24 that doesn't mean that the host personality equals the person,
25 the person is the totality of all the parts, they're all parts

1 of one person.

2 Q. Doctor, were you able to determine host personalities,
3 primary personalities, secondary personalities?

4 MR. BELL: Objection. There's no science for
5 that. He's already testified to that, Your Honor.

6 THE COURT: Mr. Cohen?

7 MR. COHEN: I'd like to hear who he's identified.

8 THE COURT: I think he said there's no
9 scientific...

10 MR. BELL: He's already said he can't do an error
11 rate, it's scientifically impossible. That's the whole basis of
12 being able to express opinions on that, Your Honor. What's the
13 error rate of determining the host?

14 MR. COHEN: Well, I need to question him a little
15 further, then.

16 Q. (By Mr. Cohen) Is there scientific support of your
17 opinion?

18 A. There's scientific support for making the diagnosis of
19 DID. There's not really scientific research on different
20 clinicians agreeing who is the host personality, but it's such a
21 simple, obvious thing.

22 MR. BELL: That's my objection, Your Honor. He
23 can't go into the host if there's no scientific authority for
24 it.

25 THE COURT: I'll sustain the objection.

1 Q. (By Mr. Cohen) Doctor, if a personality is committing
2 a crime -- if a personality is committing a crime based on the
3 multiple personality concept, would the primary person
4 understand the wrongfulness of the act?

5 A. He might or might not, it varies from person to
6 person.

7 MR. BELL: Same objection, Your Honor. He's
8 already said that there's no scientific basis to determine when
9 there's an alter, when there's not an alter, who's performing
10 what acts, and there's no rate of error on it, Judge. So he
11 can't express an opinion about it.

12 (At the Bench, off the record.)

13 Q. (By Mr. Cohen) Mr. Harris, on a videotape or
14 audiotape, indicated he told Ms. Florence, the lady that was
15 injured here in Edna, that his name was David. Based on that,
16 can you come to any ideas of who was present at the time of that
17 rape?

18 MR. BELL: Same objection, Your Honor. You
19 previously ruled. He said he cannot scientifically state which
20 alter is committing which crime, whether it's based on what
21 somebody else said, there's no scientific ability to do that.
22 He said that.

23 THE COURT: Sustained.

24 Q. (By Mr. Cohen) Doctor, Mr. Harris spoke to you about
25 his involvement in the Iraq war; is that correct?

1 A. Correct.

2 Q. And what did he tell you as far as his participation
3 in the Iraq war?

4 A. He told me that he was involved as a special forces
5 sniper, that he was behind enemy lines spotting for artillery,
6 that he personally received three bronze stars and was
7 personally responsible for the deaths of several thousand
8 Republican guards and told me that he was in a Bradley vehicle
9 when it was hit by a round of some kind. The driver was sliced
10 in half and he managed to escape through the vehicle.

11 Then he described symptoms of -- he, Billy, described
12 symptoms of post traumatic stress disorder, including
13 nightmares, flashbacks, fear, hyper-arousal, and Bobby agreed
14 that the combat had taken place.

15 Q. Have you since learned that his military experience
16 may be somewhat different as then what he narrated to you?

17 A. Yes.

18 Q. How does that play in his discussion about his
19 military background in Iraq?

20 A. Well, it clearly proves that he tells very elaborate
21 stories about things that happened, which never, in fact, took
22 place. And then that raises the question of -- it's kind of
23 three possibilities that I see. One would be he's just lying.
24 One is he's -- he actually believes it happened and he's just a
25 mixed up person. And then the other would be he actually has

1 dissociative identity disorder, and it's not uncommon in
2 dissociative identity disorder for pictures, stories, memories
3 to be put into the out-front person by somebody in the
4 background to punish them, to rile them up, to frighten them, to
5 make them attempt suicide. So those would be the possibilities.
6 But clearly he makes up fantastic stories that aren't true.

7 Q. And, Doctor, the discussion that -- or the testimony
8 he gave dealing with the pornography. Your assessment on that?

9 A. It's the same thing. It could be something that
10 actually happened, similar to the way he describes it happened,
11 but it wasn't very similar to what he described, or it never
12 happened at all. Those are the possibilities.

13 Q. In your opinion, Doctor, is Mr. Harris suffering from
14 a serious mental illness or defect?

15 A. Yes.

16 Q. And what is that?

17 A. Dissociative identity disorder.

18 Q. And would that have an effect for him to understand
19 the wrongfulness of his acts?

20 A. It might or might not. It doesn't automatically mean
21 that he doesn't understand the wrongfulness of his acts, but it
22 could.

23 MR. COHEN: Pass the witness.

24

25

CROSS EXAMINATION

BY MR. BELL:

Q. Dr. Ross, my name is Bobby Bell and I'm going to be asking you a series of questions.

You know the gentleman seated to my right, right?

A. Christopher Barden, yes, I do.

Q. Yes. So if you see me take just a minute to talk to him, you'll understand that I'm trying to get some direction in this field that y'all live in. All right?

A. No problem.

Q. Can I ask you some questions that I think we can agree on and if you don't -- I'm not trying to set you up, if you don't agree on them, you just tell me. All right?

A. That's fine.

Q. Can we agree that the theory of repressed and recovered memories is a controversial one?

A. Yes.

Q. Can we agree that the theory on this multiple personality disorder that actually has been changed to dissociative identity disorder is also a controversial theory?

A. Yes.

Q. Can we agree that these two -- when I'm talking about them, I'm talking about repressed memories, multiple personality and dissociative identity disorder, which let's for now so we don't have to say all those words, MPD and DID. Okay?

1 A. Okay.

2 Q. Can we agree that they are, all of them, basically
3 controversial theories and issues at this point?

4 A. Yes.

5 Q. I want to ask you this. Isn't it a fact that many of
6 the leaders in this field of psychology and psychiatric field
7 consider these so called theories, without me repeating them
8 each time, MIP -- excuse me, MPD and DID, to be unreliable junk
9 science? Isn't it true that there's a lot of experts in this
10 field and leaders in this field that believe that?

11 A. There's many leaders who believe that and many who
12 disagree.

13 Q. But you agree there are leaders that --

14 A. Yes.

15 Q. -- believe it to be junk?

16 Do you know Professor Paul McHugh?

17 A. Yes, I do.

18 Q. What was he the foreman and chairman of?

19 A. The Department of Psychiatry at Johns Hopkins
20 University.

21 Q. Isn't it true that he has often written and spoken out
22 against the ideas of MPD and DID, calling them unreliable,
23 dangerous junk science?

24 A. Yes, that's true.

25 Q. And that is the former chairman of psychiatric at the

1 Johns Hopkins Medical School, correct?

2 A. Correct.

3 Q. Do you know Professor Harrison Pope?

4 A. I don't know him personally, I've said hello to him
5 and I know who he is. I've corresponded with him.

6 Q. Would you disagree if I told you he's the director of
7 the Biopsychiatric Lab at the Harvard Medical School?

8 A. No, I don't disagree with that.

9 Q. Would you disagree that he has often written and
10 spoken out against these ideas of MPD and DID and called them
11 unreliable junk science?

12 A. I agree with that.

13 Q. Do you know Professor Elizabeth Loftus?

14 A. Yes, I know her.

15 Q. University of California?

16 A. Yeah.

17 Q. What's she the former president of?

18 A. I suppose it's American Psychological Association, but
19 I don't actually know that for sure.

20 Q. Former president of the Association for Psychological
21 Science.

22 A. Oh, okay.

23 Q. Do you know that she has often written and spoken out
24 against these theories and called them unreliable junk science?

25 A. She mainly focuses on the repressed memory issue, not

1 so much on multiple personality, but I'm aware of that.

2 Q. So if I offer learned treatises, you're going to argue
3 with that, that she's actually written and spoken out on these
4 disorders?

5 A. No, I agree with that. I'm just saying the emphasis
6 is mostly on the memory issues with her.

7 Q. And isn't it also true, Dr. Ross, that many of these
8 leaders in the field of -- not in the field, but psychologists
9 feel like and have published and talked about in the scientific
10 community that these theories of MPD and DID, isn't it true that
11 they were prosecuted by a licensing board and Attorneys General
12 in a number of states and actually lost their license? That's
13 true, isn't it?

14 A. There's been successful lawsuits against people who
15 diagnose and treat multiple personality, that's true.

16 Q. That wasn't the answer, but it was...

17 A. Several people have had their licenses removed that I
18 know of.

19 Q. For pushing the theories of MPD and DID?

20 A. Not exactly.

21 Q. Well, let's go through them. Isn't it true that you
22 yourself have known and been friends with and worked with a
23 number of MPD and DID therapists who were prosecuted by state
24 authorities, including the Attorneys General and licensing
25 board, for abusing patients with MPD, DID treatments. Isn't

1 that right?

2 A. That's correct, and in several of those cases I was an
3 expert witness against those professionals.

4 Q. Do you know Dr. Bennett Braun?

5 A. I haven't known him for over a decade, but I knew him
6 in the '90's, yeah.

7 Q. What happened to Doctor Braun? He was the leading guy
8 that started all of this, what happened to him?

9 A. He was sued repeatedly, he had his license removed.
10 In one of the later law cases I was actually on the plaintiff's
11 legal team against him.

12 Q. You actually learned about this stuff from him at
13 seminars, didn't you?

14 A. He's one of the people I learned from, yeah.

15 Q. And he was one of the original leaders who was
16 prosecuted by the Attorneys General, surrendered his license,
17 and left disgraced. Would you agree with that?

18 A. Yes.

19 Q. And wasn't he the president of the International
20 Society for the Study of Multiple Personality Disorders?

21 A. It was actually at that time called the International
22 Society for the Study of Multiple Personality and Dissociation
23 and he was the president at one time.

24 Q. Have you been the president of that organization?

25 A. When I was the president I changed the name to

1 International Society of the Study of the Dissociation, all of
2 the same association.

3 Q. He was the president who got his license removed, the
4 Attorney Generals went after him and he left disgraced, and
5 you've been the president of that same morphed organization,
6 correct?

7 A. Right. It's not really morphed, just changed the
8 name.

9 Q. Changed the name. Well, did y'all change the name
10 after Braun got run out and disgraced?

11 A. Yeah, but it didn't have anything to do with that
12 particular...

13 Q. How about George Grace from Georgia, did you know him?

14 A. I did back in the '80's.

15 Q. Wasn't he prosecuted by the Georgia State Board of
16 Psychology and his license revoked?

17 A. Actually I know that he had a board hearing, but I
18 didn't know the outcome for sure.

19 Q. So you didn't -- you wouldn't disagree or argue that
20 his license was revoked, would you?

21 A. No.

22 Q. Wasn't he one of the original leaders of the multiple
23 personality disorder movement?

24 A. Yes.

25 Q. And wasn't he an early president of that same board --

1 that organization that you're talking about that's changed
2 names, at that time the Society for the Study of Multiple
3 Personality Disorders?

4 A. I think he was but I don't remember for sure.

5 Q. How about Diane Humenansky from Minnesota, do you know
6 her?

7 A. I knew her when I was an expert witness in her case,
8 yeah.

9 Q. What happened to her?

10 A. She was successfully sued by a group of patients.

11 Q. How about prosecuted?

12 A. I wasn't involved in any criminal prosecution. It was
13 a civil case I was involved in.

14 Q. As a result of her MPD and DID, didn't she surrender
15 her license also when the Attorneys General got after her in
16 Minnesota?

17 A. I think so, but I'm not totally sure.

18 Q. And wasn't she one of the original leaders of this MPD
19 and DID movement?

20 A. No.

21 Q. She was not?

22 A. No. I had never heard of her before the case.

23 Q. How about Dr. Renee Fredrickson, do you know that
24 person?

25 A. I know her name. I don't know her.

1 Q. What happened to her?

2 A. I don't know. All I know about her is she wrote a
3 book about recovered memory.

4 Q. So you wouldn't disagree or argue that she was
5 prosecuted by the Minnesota Attorney General and the Minnesota
6 Board of Psychology and her license was then restricted. You
7 wouldn't disagree with that?

8 A. No. But she's not an expert in dissociative
9 disorders. I've never met her.

10 Q. Wasn't she one of the original leaders of the multiple
11 personality disorder movement?

12 A. No.

13 Q. How about Dr. Judith Herman of Massachusetts, do you
14 know her?

15 A. Met her. I know who she is.

16 Q. Wasn't she, in fact, prosecuted by the Massachusetts
17 Federal Authorities Office for drug misconduct?

18 A. I don't know.

19 Q. And wasn't she one of the original leaders of the MPD
20 movement?

21 A. No. She was involved in sexual abuse, trauma in
22 general, but not multiple personality as such.

23 Q. Are you sure of that or that's what you think?

24 A. No, I know that she's not one of the major leaders in
25 the field of MPD as such.

1 Q. Tell me about Dr. Laura Brown.

2 A. I know a little bit about her, not a lot.

3 Q. Wasn't she prosecuted and disciplined by the
4 Washington State Board of License for her being one of the
5 original leaders in the MPD movement?

6 A. She's not one of the original leaders in the MPD
7 movement.

8 Q. Do you know Doctor -- or know of Dr. Bessel van der
9 Kolk?

10 A. Yes.

11 Q. Wasn't he fired by the Harvard Medical School and ran
12 from a federal court and claimed that his important research was
13 burned up in a mysterious fire?

14 A. I don't know about that.

15 Q. Wasn't he one of the original leaders of the repressed
16 memory and MPD movement?

17 A. No. His area is PTSD, he's only marginally involved
18 in MPD at most.

19 Q. How about Dr. Judith Peterson of Texas?

20 A. I know her.

21 Q. Wasn't she prosecuted by the U.S. Attorney and the
22 F.B.I. of Texas for health care fraud by using hypnosis to
23 fraudulently create so called MPD patients?

24 A. Yes.

25 Q. Wasn't her hospital clinic at Spring Shadows Glen

1 Hospital shut down and the hospital sold?

2 A. Yes.

3 Q. Wasn't she one of the original leaders of the MPD
4 disorder movement?

5 A. She's not really a leader, she's a person in the
6 field.

7 Q. Right.

8 And isn't it true, without me going on, that there's
9 many other therapists that have been sued, prosecuted for
10 abusing patients with controversial treatments for this so
11 called MPD disorder and DID?

12 A. There's a lot of lawsuits in the '90's, but those
13 settled down pretty much late '90's. There's been a small
14 number in the 21st century.

15 Q. Wasn't there a number of therapists that were sued and
16 prosecuted for abusing patients under the so called guise of
17 helping them with this MPD and DID?

18 A. Yes.

19 Q. You happened to be one of those that was sued, weren't
20 you?

21 A. That's correct.

22 Q. Tio was the name, was it not?

23 A. Correct.

24 Q. And you were sued, along with others, for abusing her
25 with this so called MPD and DID; isn't that right?

1 A. Nobody accused me of abuse, but I was accused of
2 malpractice.

3 Q. Didn't you come in and confirm a diagnosis that these
4 clinics and you that you supported, because you've confirmed it,
5 that she had these alters, Messiah, called memories of a satanic
6 ritual where a man was nailed to an inverted cross, dismembered
7 and burnt?

8 A. Yeah. She had all those memories in place before I
9 moved to Texas.

10 Q. And you discerned that that was true, though, right?

11 A. No, I didn't.

12 Q. You did not express your opinions that those were true
13 and confirm those diagnosis?

14 A. I confirmed the diagnosis.

15 Q. And one of the diagnosis is what I just said, right?

16 A. The satanic abuse is not a diagnosis, it's not in the
17 DSM.

18 Q. What about that she was allegedly -- the alter that
19 she was allegedly raped by the devil?

20 A. Well, obviously that's not a psychiatric diagnosis.

21 Q. It's an alter, right? Alters being personalities?

22 A. What's your question about that? I don't believe she
23 was raped by the devil and that's not a psychiatric diagnosis.

24 Q. No. But that was one of the alters that they and you
25 pulled out of her, right, and had to treat by making her believe

1 in those and know that they happened to be able to treat her?

2 A. That's not true.

3 Q. Would it be true, since we've gone through all this,
4 that you yourself are considered a highly controversial person
5 in this field that we're talking about?

6 A. I'm one of the recognized leaders in the field of
7 dissociative disorders.

8 Q. Have you been the subject of media exposure, including
9 a film by the Canadian Broadcasting Company?

10 A. I was on a CBC program, that's correct.

11 Q. Haven't you publicly stated that you believe that the
12 CIA was using brain-washing techniques to train Sirhan Sirhan to
13 kill Bobby Kennedy?

14 A. No.

15 Q. You've never publicly stated that?

16 A. That's a possibility.

17 Q. I'm asking, have you publicly stated it?

18 A. That it's a possibility.

19 Q. That that's your theory?

20 A. It's my theory that it's a possibility.

21 Q. How about a probability? Have you ever said I believe
22 it's a probability that's what happened?

23 A. I would say... Let me just state my opinion right
24 now. First of all I've never interviewed Sirhan Sirhan
25 personally.

1 Q. I didn't ask you that.

2 A. But based upon what I've read about him and watching a
3 few documentaries about him, I'd say that it is possible that he
4 had a handler or controller of some kind. I don't know for a
5 fact that he did and I don't know for a fact that he didn't.

6 Q. Are you claiming to this jury -- are you claiming to
7 this jury that you know and have some unique ability to know
8 whether Billy Joe Harris is lying?

9 A. No.

10 Q. You were present when you heard about the many, many
11 violent crimes that Billy Joe Harris has been involved in. Did
12 you conduct any type of independent analysis or do anything to
13 try to substantiate whether any of that was true?

14 A. No.

15 Q. Did you question him about it?

16 A. I asked him about the rapes, yeah.

17 Q. But you have no way of knowing if he was malingering
18 or lying about that, do you?

19 A. I can reach an opinion, but I can't reach an opinion
20 with certainty.

21 Q. Based on scientific acceptability, you can't do that,
22 right?

23 A. The scientific acceptability in medicine and in the
24 law, as I understand it, is reasonable medical probability. For
25 an expert to testify that in his opinion in reasonable medical

1 probability something is true, you don't have to be certain, you
2 just have to use your knowledge of the literature, your
3 interview, your general understanding of everything to come to
4 an opinion that in reasonable medical probability this is the
5 case. There's no requirement to be certain at all.

6 Q. Well, Dr. Ross, you just stated the standard that
7 needs to be applied in a civil case. You're aware of Daubert,
8 aren't you?

9 A. Yes, I've been involved in Daubert hearings.

10 Q. Daubert doesn't say you can testify if it's just
11 reasonable medical probability, does it?

12 A. No.

13 Q. Okay. So that was not true what you told the jury,
14 right? To express an opinion in a criminal case about any of
15 these matters you have to pass the Daubert test of scientific
16 reliability, published journals that are relied upon by the
17 scientific community that have published journals on the error
18 rate that you might be wrong --

19 A. Right.

20 Q. -- that's what you have to have, right?

21 A. Right. And I've already passed a Daubert hearing in
22 Minnesota.

23 Q. I'm not asking you, I'm asking you right here.

24 A. Right. But if I passed a Daubert hearing and if I was
25 testifying about DID, in order to testify I don't have to know a

1 hundred percent for sure what happened, because nobody in
2 psychiatry knows anything a hundred percent for sure about any
3 witness's state of mind months ago at the time of the crime
4 ever. All psychiatrists and all diagnoses could be excluded on
5 those grounds.

6 Q. Why don't you tell the jury what, in fact, happened,
7 is you were excluded as an expert under Daubert in that
8 Minnesota case you're talking about, weren't you?

9 A. No, I wasn't. I testified.

10 Q. Your testimony about repression and repressed memories
11 was found under the Daubert hearing to be unreliable. That's
12 true, isn't it? Yes or no.

13 A. I don't remember on the repressed memory issue as
14 such, but I did testify subsequent to the Daubert hearing. That
15 I remember.

16 Q. Repressed memory. You were excluded out under
17 Daubert, were you not?

18 A. I might have been. I don't remember. But repressed
19 memory is not really an issue in this case.

20 Q. And what you might not know is, like you're testifying
21 right now, you might not know, but are you aware, has anybody
22 told you that your testimony was later excluded?

23 A. No.

24 Q. I'm not pulling out the DSM for any other reason than
25 probably something --

1 MR. BELL: May I approach the witness?

2 THE COURT: You may.

3 Q. (By Mr. Bell) -- probably something we agree on.
4 Before you can make a diagnosis of dissociative identity
5 disorder, you must first make a finding and distinguish whether
6 the person giving you that information is malingering or in any
7 way faking, must you not?

8 A. Right.

9 Q. That's what the DSM says?

10 A. Right. You have to come up with an opinion as to
11 whether they are or are not faking.

12 Q. You have formulated an opinion here and testified to a
13 diagnosis of DID, but you have not, prior to doing that, made
14 any determination and distinguished whether he's malingering or
15 lying?

16 A. Not true.

17 Q. You have? What are you basing your opinion that he's
18 not lying on?

19 A. On my overall impression of the case and my interview
20 with him. That's the only criteria there are.

21 Q. So are you testifying he wasn't lying to you, because
22 you said you couldn't do that? Is that changing?

23 A. I can't prove that he's lying, I can't prove that he's
24 not lying, but I can come up with an opinion.

25 Q. Is your opinion that he's lying or not lying?

1 A. Well, he's clearly telling stories that are not true a
2 bunch. I don't believe that he's faking the DID. I could be
3 wrong, but I don't think he is.

4 Q. Well, let me give you something and maybe it will help
5 you.

6 A. Okay.

7 Q. What if I was able to show you, not by he said she
8 said, but what if I was able to show you that Billy Joe Harris
9 has admitted in his own words that all of this shaking and
10 falling down on the floor and all that stuff, you know what I'm
11 talking about?

12 A. Uh-huh.

13 Q. Is, in fact, not true, it's a show, it's a picture
14 show, and he was putting it on to help his lawyer get this stuff
15 moved on and tells his girlfriend how'd you like the picture
16 show. If you knew he was faking and lying, that would change
17 your opinions, would it not?

18 A. It might or it might not.

19 Q. Well, good, let's let you listen and see if the fact
20 that you hear him admitting that he's faking and lying is going
21 to change your opinions.

22 Now, let me set the stage, okay? I'll bring in
23 testimony.

24 A. Okay.

25 Q. I don't want you to think I'm not going to do this.

1 But I need to set up. It's not a hypothetical.

2 A. Okay.

3 Q. I want you to assume, because you've been in the
4 courtroom, that he was arrested on January the 8th of 2011.

5 A. Right.

6 Q. That he had no shaking, he had no twitching, he had no
7 falling down, he had no, "Cease fire, Soldier," "Stand down,
8 Soldier," "Charge the hill" or any of that stuff, any of that
9 shaking around --

10 A. Right.

11 Q. -- you know what I mean --

12 A. Right.

13 Q. -- that you were seeing when you were there.

14 A. Right.

15 Q. Okay. Until he went to see a Dr. Kutnick to try to be
16 examined for competency, and that's when it started. Are you
17 with me?

18 A. Right.

19 Q. And then I want you to further assume that he never
20 shakes, he never does any of the twitching, we have cameras in
21 his cell, unless and until somebody walks by and he sees them
22 and then he starts shaking. Just got that so far?

23 A. Uh-huh.

24 Q. And that when he comes in the courtroom and does all
25 this shaking and flops on the floor, there's a camera on him,

1 and when he leaves out this door ain't no shaking going on
2 anymore. I know there's answers for that, but let me just set
3 the stage. Assume all that.

4 Now, assume that on March the 11th of 2011 Leon
5 County... You know where that is, in Centerville?

6 A. Uh-huh.

7 Q. Leon County's got cases against him, same thing. They
8 send a deputy to come get him. That deputy came down and got
9 him in the car and he starts his shaking and stuff, or whatever,
10 but then quits for most of the ride. It's exhausting to do
11 that. And when he gets into the Leon courtroom there's a judge,
12 there's Mr. Cohen, there's Marylene Evans, his girlfriend. I'm
13 not going to ask you to believe her. Okay? And when he walks
14 in he immediately flops to the floor, kicking and screaming,
15 "Incoming Soldier," all this let me just call it garbage. That
16 would be a fair statement if it's faking, wouldn't it? Just all
17 this symptoms of whatever.

18 A. Okay.

19 Q. And then he immediately -- he gets taken back to Edna,
20 he arrives at the jail at nine o'clock, they've got to process
21 him in and get him into his cell. At 9:20 he calls Marylene
22 Evans on the phone. He's told that his phone conversations are
23 recorded. There's only one phone in his cell, he's in a cell by
24 himself, it's him. And he's going to tell you -- I'm going to
25 play it and I'm going to give you a little transcript so you can

1 follow along -- and he's going to tell the jury that he was
2 doing that in Leon County and it was a show and it was a picture
3 show and he had to do it to get the ball rolling and she agrees,
4 yeah, it wasn't rolling, but I got the ball rolling now. And he
5 talks about, yeah, it's a picture show I'm putting on. But I
6 want you to listen to it.

7 May I give you a transcript, sir, to help you?

8 A. Sure.

9 Q. Okay.

10 A. So you don't want me to comment now, you want me to
11 listen?

12 Q. I'd like for you to listen. Yeah, I think it would
13 be -- don't you think it would be fair to hear the facts before
14 you comment on it?

15 A. Sure.

16 Q. Okay.

17 MR. BELL: The same limiting instruction, Judge.

18 THE COURT: All right, ladies and gentlemen, I'm
19 going to give you a limiting instruction on the record. I'm
20 instructing you that you will only be permitted to use this
21 transcript as you listen to the tape to aid you, if it does, in
22 understanding the contents of the tape. This is a transcript
23 prepared by the State of Texas for your use at this time and you
24 will remember that they caused it to be prepared. If there
25 should be in your mind any variance whatsoever between what you

1 hear on the tape and what you see on the transcript of
2 conversation, you are to remember what is on the tape and not
3 what is on the transcript.

4 These transcripts will be retrieved from you
5 after you have been permitted to use them during the course of
6 listening to the tape, so don't depend on the transcript for
7 your later deliberation as you will not be permitted to take the
8 transcript of the conversation with you to your jury room. It
9 will be re-claimed from you after the tape has been played.

10 With those limiting instructions, and Mr.
11 Greene's already passed out the transcripts. We're going to do
12 just what we did before. You're going to use those while you
13 listen to it. As soon as the tape is over, pass those back down
14 to that end of the jury box. Okay?

15 Mr. Bell.

16 Okay. How long is the tape?

17 MR. BELL: Very short, Judge.

18 THE COURT: We'll listen to the tape and then go
19 to lunch, how about that?

20 MR. BELL: That will be fine.

21 (Audiotape playing.)

22 THE DEFENDANT: That statement is...

23 MR. BELL: All right, stop the tape. Stop the
24 tape.

25 THE DEFENDANT: I was talking about Red Riding

1 Hood.

2 (Audiotape stopped.)

3 MR. BELL: Stop the tape and I ask the defendant
4 to be quiet, Your Honor.

5 THE DEFENDANT: Take that... I was talking about
6 Red Riding Hood, that's a show...

7 THE COURT: Ladies and gentlemen, we have
8 prepared a room for Mr. Harris to sit in where he has live TV
9 and audio feed of the things that are going on in the courtroom
10 so that he can participate in those things, and he is going to
11 be put in the room. It's right on the other side of this wall.
12 The bulbs that you see on the ceiling are the TV cameras --

13 THE DEFENDANT: Little Red Riding Hood.

14 THE COURT: -- so that he can see what's going on
15 in the courtroom, so that he can see and hear, contemporaneous
16 with you, what's happening in the courtroom.

17 (Defendant exits the courtroom.)

18 MR. BELL: Your Honor, I apologize, but because
19 of that I'm just going to back it up and try to start it at the
20 beginning, and I apologize. I think that's the only fair way to
21 do it.

22 (Audiotape played.)

23 MR. BELL: Do you want to break for lunch, Your
24 Honor?

25 THE COURT: Okay, let's pass the transcripts back

1 down to the end of the jury box and we'll stop for lunch. And
2 I'll ask you to be back in the jury room, ready to proceed, at
3 1:30 this afternoon, and we'll be in recess until that time.

4 (Lunch recess.)

5 -oOo-

6 (Open court, defendant not present.)

7 THE COURT: You may be seated.

8 Mr. Bell, are you ready?

9 (Jury present.)

10 THE COURT: You may be seated.

11 Mr. Bell, you may proceed.

12 Q. (By Mr. Bell) Did you have a good lunch, Dr. Ross?

13 A. Pizza Hut, not too bad.

14 Q. Well, we've got better than that.

15 A. I've done two Tex Mex already.

16 Q. Okay. Let me read something that's in your -- you've
17 already did it, but it's just one sentence. You said, "I did
18 not make any effort to corroborate any of the information that
19 was provided to me by Billy Joe Harris." That's true, right?

20 A. Yes.

21 Q. Dr. Ross, can we agree that even at best to the
22 defendant, Billy Joe Harris, he was basically laughing at us,
23 laughing at the jury, laughing at the State of Texas and
24 laughing at you for trying to deceive people with faking
25 symptoms and stuff. Would you agree with that?

1 A. No.

2 Q. You don't think that's what he was doing?

3 A. No.

4 Q. So when he said I'm just putting on a show because
5 it's not moving fast enough and I need to move it a little
6 faster, you don't believe that's what he was saying?

7 A. First of all, it's a pretty confusing conversation and
8 it's hard to track exactly what he's talking about along the way
9 in order to reach any firm conclusion. It's not crystal clear.
10 He could be talking about the trial, but he could be talking
11 about a movie or something. It's not crystal clear what he
12 means by that.

13 Q. Can I just ask you something?

14 A. Yeah.

15 Q. I want you to give your best opinion of whether he was
16 talking about a movie or whether he was saying I just fell down
17 on the floor at Leon County and I was flopping around and you
18 were in the courtroom, it was a show. Which do you think is the
19 more plausible explanation?

20 A. I can't tell. I can't come to a conclusion.

21 Q. Fine. That's good. If you don't know, then you just
22 tell me you don't know.

23 Let me ask you something about the tests that were
24 run.

25 A. Uh-huh.

1 Q. You didn't conduct any of those tests, did you?

2 A. That's not the way they're done ever.

3 Q. Did you yourself conduct any of the tests?

4 A. No.

5 Q. Would you just answer my question. Mr. Cohen will let
6 you go tell what you want to tell.

7 A. Okay.

8 Q. Did you ask any of the questions?

9 A. No.

10 Q. Are you a forensic psychiatrist?

11 A. No.

12 Q. Is -- to the best of your knowledge is Mr. Cohen a
13 forensic psychologist?

14 A. No.

15 Q. The way it works, so that I understand it, is you sent
16 the questions and the test in the mail to Mr. Cohen.

17 A. Correct.

18 Q. Mr. Cohen goes in the jail and administers the test
19 that you've given him and the questions that you've given him.

20 A. Correct.

21 Q. You have no way of knowing in any shape, form or
22 personally who was giving the answers to those questions, do
23 you?

24 A. Well, I assume with pretty high level of --

25 Q. Mister...

1 A. -- confidence that it was this body here.

2 Q. Dr. Ross, I didn't ask you to assume. I said do you
3 have any personal knowledge of who answered the questions?

4 A. Do you mean which alter personality or whether it was
5 that human being?

6 Q. No, sir. Personal knowledge of anybody who answered
7 the questions?

8 A. No.

9 Q. You weren't there, you don't know if Billy Joe Harris
10 answered the questions or Alan Cohen answered the questions, you
11 don't know that personally, do you?

12 A. Correct.

13 Q. Is that the way interviews are normally done, you rely
14 on a lawyer to go in there and either the lawyer and/or somebody
15 else, Billy Harris, fill out the answers and send them to you?
16 Is that how you normally conduct it when you form opinions based
17 on?

18 A. I don't -- I've only been in a couple of civil --
19 criminal cases and I've never administered questionnaires as
20 part of those cases, so there's not a normal procedure for me.
21 But normally that wouldn't be how it would be done.

22 Q. That's not the way it should be done, is it?

23 A. That's not the ideal way that it would be done.

24 Q. Well, what personal knowledge would you ever have
25 whether or not those answers were being legitimately filled out

1 and answered by the defendant if you're not there? Personal
2 knowledge. You'd have none, would you?

3 A. Correct.

4 Q. Let me ask you this. We're going to go through a lot
5 of the facts and what have you and I'm going to try to do it as
6 quickly as possible. But what if, Dr. Ross, what if I was able
7 to show you factually that it was, in fact, Billy Joe Harris who
8 was here and who was raping Catherine Wiegand? Would that
9 affect any of your opinions?

10 A. Well -- so it's a hypothetical, right?

11 Q. Yeah.

12 A. Because I don't see how hypothetically you could
13 establish that, but at any rate.

14 Q. All right. Well, let me do it, then. Don't do it
15 hypothetically. Tell me... Do you know anything about the
16 facts of this case?

17 A. Yeah, a little bit.

18 Q. Tell me about what you know about the facts of the
19 case.

20 A. Well, it's what you ran through yesterday.

21 Q. Okay. Other than what you've heard when you were in
22 the courtroom today, you didn't know anything about the facts of
23 the case when you formulated these opinions?

24 A. Yeah. I knew that he's accused of a whole series of
25 rapes and there's DNA on a bunch of them.

1 Q. Tell me what you knew about the facts of this crime
2 before you came in the courtroom and listened.

3 A. I knew that the woman had been raped.

4 Q. Okay.

5 A. And I knew there was DNA.

6 Q. On this one?

7 A. In some of the cases, but I wasn't sure...

8 Q. I'm talking about this case.

9 A. Yeah, I wasn't sure if there was DNA in this case or
10 not.

11 Q. Basically you didn't know much, if anything, about the
12 facts. True?

13 A. True.

14 Q. Okay. This is a State's exhibit. This is the
15 defendant's wallet. It's in evidence. Okay? And I'm going to
16 open this wallet up. And what I'm going to do, Dr. Ross, is I'm
17 going to pull out of this wallet this -- this is where, for the
18 record, these two pieces of paper were located in the
19 defendant's wallet. Are you with me so far?

20 A. Uh-huh.

21 Q. And you've heard testimony about three women being
22 raped in Yoakum, one of them twice. You've heard all of that?

23 A. Right.

24 Q. And I want to tell you, just so we can go a little
25 quicker, that on the second interview, we couldn't bring it up

1 at this time because there were so many, but he admits I've
2 never been to Yoakum, I've seen the signs but I've never been to
3 Yoakum. Okay?

4 A. Okay.

5 Q. And I want you to look... Okay. You notice that what
6 I'm going to pull out, that's going to be marked as...

7 (State's Exhibits 176-177 marked.)

8 Q. (By Mr. Bell) Would you please look at 176, and as
9 you're looking at it I'm going to ask you if I'm accurately
10 describing what it is. Is that or is that not an Internet
11 search that was run on yellowpages.com on an Evelyn M. King,
12 down at the bottom, run on December the 8th, 2010?

13 A. Yes, it is.

14 Q. Does that Internet -- does that Internet search that's
15 in Billy Harris's wallet, does it show that the person he was
16 searching out was Evelyn M. King?

17 A. Yes.

18 Q. Now, I'm going to ask you to assume this, and I'll
19 offer proof, that Evelyn King is a 91-year-old single female in
20 Yoakum, Texas. Will you assume that with me?

21 A. Sure.

22 Q. Does State's Exhibit 176 not only have a map of the
23 street she lives on, but actually have directions from Billy Joe
24 Harris's house to Evelyn M. King's house?

25 A. Yes.

1 Q. Were you aware that that memo -- that that Internet
2 search in his wallet was done on December the 8th, 2010, three
3 days after he broke into Catherine Wiegand's house and stole her
4 computer, her printer and her house key to come back and rape
5 her? You're aware of that now, are you not?

6 A. I am now.

7 Q. What if I were to tell you that folded up inside --
8 that State's Exhibit 176, the Internet search and Google on that
9 91-year-old woman, after he's already raped three different
10 times in Yoakum, is a memo from TDC. Would you look at this.

11 A. Right.

12 Q. I want you to now assume that there will be testimony,
13 as soon as the experts are over, that the person who issued that
14 memo... He worked at TDC in food services, that the food
15 service director issued that memo on January the 4th of 2011,
16 three days before he came down here and raped Catherine Wiegand.
17 Okay?

18 A. Okay.

19 Q. And Billy Joe Harris, not Bobby, Billy Joe Harris is
20 the one that worked at TDC that got that memo.

21 A. Okay.

22 Q. And if Billy Joe Harris folded up within the memo he
23 got three days before he raped Catherine Wiegand an Internet
24 search on a 91-year-old let's call it target in Yoakum and stuck
25 it in his billfold, would that kind of suggest to you that Billy

1 Joe Harris knew what he was doing and was fixing to target
2 another woman because he's the one that got that memo at work?
3 That's kind of pretty persuasive, isn't it?

4 A. Yes and no.

5 Q. If you can't answer it...

6 A. I can elaborate. It's persuasive on this human being
7 over here premeditated and committed the crimes, I have no doubt
8 about that. It doesn't resolve the question as to whether it
9 was Billy or Bobby who folded those things together and put them
10 in the wallet.

11 Q. Okay. Now, here's what you and I can do as we go
12 through, because I think we've agreed on something. You aren't
13 able to actually say who was doing what as to each of these
14 crimes, are you?

15 A. I wasn't there at the time.

16 Q. You're not able to say whether it was Billy Joe Harris
17 or an alter, you've already indicated that.

18 A. Right. I can give an opinion but I don't know for
19 sure.

20 Q. It's not based on any scientific... You said you
21 can't scientifically prove it, right?

22 A. Okay.

23 Q. So I want you and I to assume that it's either Billy
24 or Bobby, okay?

25 A. Okay.

1 Q. What I'm saying is isn't this pretty persuasive, the
2 fact that he had -- he, Billy Harris, who was working at TDC,
3 took a memo that he, Billy Harris, got and folded up an Internet
4 search on another target inside that. That's pretty persuasive
5 that...

6 A. Not to me.

7 Q. Okay. Not to you, I agree. So that doesn't mean
8 anything to you?

9 A. If I can't know which alter it was, how can anybody
10 know which alter it was? How can we know it was Billy, not
11 Bobby?

12 Q. That's right. And right now it's Billy Joe Harris's
13 obligation and responsibility and he has the burden of proof to
14 prove it wasn't him, right? Do you know that or do you not know
15 that?

16 A. Yeah.

17 Q. And what we do know is that the body of Billy Joe
18 Harris, the one that had this wallet with that Internet search
19 and Google, he's the one that went in the house and raped
20 Catherine Wiegand. That body did, didn't it?

21 A. Right.

22 Q. So that I'm clear, this really doesn't mean much to
23 you, right?

24 A. It's clear evidence that he had a map. It's
25 consistent with all the evidence that he premeditated and

1 committed the crimes, but it doesn't weight in favor of it's
2 Billy or Bobby.

3 Q. Okay, fine. You don't think it adds anything. All
4 right.

5 Are you aware of any other evidence that was found in
6 his vehicle, other than when you came here?

7 A. No.

8 Q. Didn't know that, did you? Made no attempt to find
9 any of that out, did you?

10 A. No.

11 Q. And when the traumatic events that caused this, your
12 opinion, that he has a multiple personality disorder, the dogs
13 and all that, the Cindy Polanski, one of the things that I
14 believe the DSM says is you're supposed to make some kind of
15 finding whether somebody's faking it or not before you make the
16 diagnosis. That's fair, isn't it?

17 A. Yeah.

18 Q. Did you attempt at any point to contact family, to
19 contact the school, to do anything to see if this alleged
20 traumatic event that caused you to formulate the DID and MPD
21 diagnosis had any validity? You didn't do any of that, did you?

22 A. No.

23 Q. Even though the DSM says you're supposed to make some
24 attempt to see if he's faking, correct?

25 A. Right. But those events could have happened exactly

1 as he describes them and he could be faking. They could never
2 have happened and he could not be faking.

3 Q. Right.

4 A. So whether those events did or didn't take place
5 doesn't, by itself, prove that he's faking. And in any case we
6 know he's telling fantastic stories that aren't real, like the
7 combat and the space people. None of these things are in doubt.

8 Q. Doesn't it take a traumatic event that occurs over a
9 substantial period of time for these multiple personalities to
10 protect it? That's true, isn't it? That's the essence of the
11 MPD?

12 A. That's true in the clinical literature but it's not
13 required by the DSM to make the diagnosis. It doesn't say what
14 the cause is in the criteria.

15 Q. Whether you and I argue about DSM and whether it's
16 scientific, the truth is you've got to have a traumatic event.
17 It's got to have occurred.

18 A. The American Psychiatric Association and the DSM-IV do
19 not require a traumatic event in order to make the diagnosis.
20 It's not in the criteria that there has to be a traumatic event.
21 In the clinical literature, almost all the time there is.

22 Q. And so one thing we know about you, Dr. Ross, is you
23 made absolutely and positively no attempt to verify any of the
24 information that you were using to form your opinion of the
25 diagnosis, did you?

1 A. That's true with one exception. Mr. Cohen informed me
2 that, in fact, he was always in food services in the military.

3 Q. All right. Other than the fact he was in food
4 services, you made no attempt to try to see if anything he was
5 telling you was a lie?

6 A. Correct.

7 Q. Well, let me ask you this.

8 A. Hold on. That's correct in terms of doing outside
9 investigation. In terms of asking questions, getting an
10 impression and getting an opinion --

11 Q. Right.

12 A. -- I tried to come to a judgment.

13 Q. That's asking this guy over here, Billy Harris,
14 questions, right?

15 A. Right. That's all I can do.

16 Q. Doesn't that make a little bit of kind of nonsense if
17 I've got to determine if something's true, so I'm going to
18 listen to what the guy says, but I'm not going to try to see if
19 what he's telling me is true? That kind of doesn't make any
20 sense, does it, Dr. Ross?

21 A. Sure, it makes sense.

22 Q. Do you think that's fair?

23 A. It's fair within the reality of psychiatry and the
24 resources that are available for the Defense.

25 Q. Fine. For you to come in here and render an opinion

1 that's trying to get a serial rapist off from criminal
2 responsibility, you think it's fair to make no investigation as
3 to whether he's lying. You think that's fair?

4 A. That's not what I said.

5 Q. Okay.

6 (State's Exhibit 865 marked.)

7 Q. (By Mr. Bell) Exhibit Number 865 I will tell you, Dr.
8 Ross, was found in the defendant's vehicle in his trunk. And,
9 sir, it is an address book.

10 A. I'm just glancing through it, I'm waiting for a
11 question.

12 Q. Assume that's an address book of Mabel Watson --

13 A. Oh, okay.

14 Q. -- a person that it will be shown, according to the
15 DNA and trophies that were taken at her residence, he raped on
16 July the 20th of 2009. Does that mean anything to you
17 whatsoever about Billy Joe Harris committing this rape of
18 Catherine Wiegand? Yes or no?

19 A. I have no doubt that he committed that rape.

20 Q. What I'd like to do at this time... Well, I tell you
21 what. I jumped...

22 You've agreed, have you not, Dr. Ross, that this
23 defense of these alters and what have you is highly
24 controversial, right?

25 A. Right.

1 Q. And you've admitted that you've been involved in other
2 controversial theories or whatever, that's not anything you
3 deny, right?

4 A. Correct.

5 Q. Now, as long as we're talking about controversial
6 things, because you would agree that everybody's credibility who
7 comes in here should be subjected, right?

8 A. Sure.

9 Q. No question. Let me show you something and I want you
10 to -- after I play it I'll ask you some questions. I won't
11 unfairly just play it and not talk to you about it.

12 I will tell you for our purposes, and I'll let you
13 answer questions, I won't cut you off, that it allegedly
14 represents you doing an experiment in which you were trying to
15 get onto a show to get a million dollars, where you were saying
16 you could shoot eye beams out of your eyes and play a tune on a
17 computer. Let's look at it and then I'll give you an
18 opportunity to talk about it, okay? I won't cut you off.

19 A. Okay.

20 (Videotape played.)

21 Q. (By Mr. Bell) And you were doing this in preparation
22 because you were applying to the James Randi Educational
23 Foundation's one-million-dollar paranormal challenge to receive
24 money. And you did that in 2008, right?

25 A. Correct.

1 Q. And what you were actually doing was shooting eye
2 beams out of your eyes and playing a tune on a computer, right?

3 A. Well, when you state it like that it sounds completely
4 kooky and stupid.

5 Q. I'm just asking a simple yes or no. Is that what you
6 were doing, shooting eye beams out of your eyes and playing a
7 tune on a computer?

8 A. I never used the word "shoot".

9 Q. You were forcing eye beams out of your eyes and
10 playing a tune on a computer.

11 A. No, I wasn't forcing them out.

12 Q. How does it come out?

13 A. This is the brain waves that are measured by EEG's all
14 the time, so a normal EEG, you put electrodes on a person's head
15 and they're outside the head on a scalp. And you have a --
16 what's called a reference electrode on the ear, usually, and the
17 brain waves come out through the scalp and are picked up by the
18 sensors and then they go into the computer and you see the
19 squiggly lines. That's how neurologists diagnose seizures.

20 You can take a similar kind of electrode, put it on
21 your chest, the electricity goes into the -- comes out from your
22 heart, goes through your skin, comes out your chest wall, goes
23 into the electrode, goes into the software and the hardware and
24 out comes an EKG. So doctors are always measuring the
25 electromagnetic energy that comes out through your skull and out

1 through your chest all the time, it's completely mainstream,
2 completely scientific.

3 Q. Okay. Well, let me ask you this.

4 A. Hold on, I've not finished my answer yet.

5 Q. I'll ask you some other questions, let's move on or
6 we'll be here...

7 Let me ask you this. Did you ever get that million
8 dollars?

9 A. It's still in process.

10 Q. Did you ever get that million dollars?

11 A. Not yet.

12 Q. I think I've got everything for you replicated here,
13 can you do it for the jury here? I've got your goggles and your
14 tin foil and your wires and your ear -- can you do that and play
15 a tune on Dr. Barden's computer?

16 A. I doubt it.

17 Q. Do you want to try?

18 A. Not particularly.

19 Q. Okay. Well, let me ask you this, Dr. Ross. If you
20 pulled off -- if you were able to convince a jury that multiple
21 personalities were able to get a serial rapist off, wouldn't --
22 isn't it true that you would be able to receive large sums of
23 money and would be in big demand across the nation on that
24 particular issue? That sounds -- that's fair, isn't it?

25 A. Possible.

1 Q. And isn't it true that you asked the judge if you
2 could talk to the media, didn't you, earlier, when the judge
3 said that...

4 A. It's the media approached me and asked if they could
5 do an interview and I wanted to know what the rules were
6 concerning that.

7 Q. But you mentioned media and nobody else, right? You
8 said can I talk to the media?

9 A. I already knew that I couldn't talk to other experts
10 or other witnesses --

11 Q. You can talk to experts.

12 A. -- or the jury.

13 Q. All right, sir, let me ask you this. I know you don't
14 know the facts of any of these cases, so let me -- let me walk
15 you through something that I would like to ask you a question
16 about. I'm going to give you some money, but you can't keep it,
17 Dr. Ross. All right? I'm going to give you \$11,000. Just
18 leave it right there for right now.

19 A. Very generous of you, thank you.

20 Q. No, I'm not going to let you keep it. It's a very
21 serious point I want to make with this, all right, and I know
22 you didn't know that so I'm not faulting you for that.

23 I want you to assume this with me. I want you to
24 assume what is factually going to be proven. I want you to
25 assume that on January the 21st of 2009 a 67-year-old lady named

1 Dorothy Gerdes, who had been what any of us would describe as a
2 simple lady, who when she was younger collected eggs from 2,000
3 chickens and washed them twice a day to make money. Has taken
4 care of elderly people in other people's homes all of her life.
5 Never had a bank account. Never had -- doesn't have a car,
6 walked everywhere she went. In all that hard work over those
7 years she had accumulated 11,000 bucks. We asked her what
8 denominations and she said hundreds mainly, but some 50's and
9 some 20's. And I'm going to do this because I want you to hand
10 it to me because I'm going to ask you a question about it. It's
11 not done just to be silly about it, all right?

12 A. Okay.

13 Q. Because we have evidence...

14 MR. BELL: What exhibit is the bank records?

15 (Counsel conferring.)

16 Q. (By Mr. Bell) Also in the records, Dr. Ross, is that
17 on January the 21st of 2009, that that was a Wednesday.

18 A. Okay.

19 Q. And there's not going to be, I don't think, any
20 dispute. He, the defendant, would leave Copperas Cove sometime
21 around 12:30, 1:00, drive to Edna, and then after work at
22 Aramark he would drive back. Not going to be much question that
23 along that route you could take a route that would take you
24 conveniently through Yoakum. Okay?

25 A. Okay.

1 Q. On January the 21st Billy Joe Harris -- and for our
2 purposes so that you and I don't get into disputes about it,
3 we're going to assume Billy Joe Harris or Bobby, whatever.

4 A. Okay.

5 Q. Because I want to show you where I think that you
6 would agree it's got to be Billy Joe Harris, but we'll go
7 through.

8 Leaves Copperas Cove 12:30 or 1:00. Sometime around
9 5:30 a.m. the body of Billy Joe Harris -- if I do it like that
10 can we just...

11 A. Sure.

12 Q. Okay. Dressed all in black and wearing gloves, pushes
13 open the door, rapes this woman. They'll get to see scratches
14 on her face where she was roughed up pretty good. And he took
15 \$11,000 in cash. That's on January the 21st. That's a
16 Wednesday. Okay?

17 A. Okay.

18 Q. I want to show you now what happens on January the
19 22nd. These are from his bank records, Dr. Ross.

20 I want you to rubber band what the jury's looking at,
21 which I will offer in a minute as State's Exhibit 182.

22 Do you see that deposit slip up at the top?

23 A. Yeah.

24 Q. That's a deposit slip that's going to go into his bank
25 account that's made out on January the 22nd.

1 Would you rubber band the top of it, please, sir.

2 I'll tell you he comes back to work Thursday, okay,
3 drives all the way back to Edna. Florence Collins, who's living
4 with him. Give me \$3,000. Count out for me \$3,000. You can
5 use some 20's and you can use some 50's, you don't have to use
6 them all. Pretty large sum of money, right?

7 A. Right.

8 Q. Billy Joe Harris hands Florence Collins \$3,000 the day
9 after Dorothy Gerdes is raped and all of her money of \$11,000 is
10 stolen. And he tells Florence Collins: Deposit that in my bank
11 account.

12 You see that \$538?

13 A. Yeah.

14 Q. He gave her his Aramark check, too. Billy Harris, who
15 is working at Aramark, gives Florence Collins his Aramark check.

16 She makes that deposit, if you look at the back and
17 really get a magnifying glass on it, you'll see it, on Thursday
18 at 3:15 p.m.

19 A. Okay.

20 Q. So Billy Joe Harris -- the body of Billy Joe Harris
21 gives Florence Collins \$3,000 the day after he rapes Dorothy
22 Gerdes and takes the money.

23 He goes to work on Thursday. He goes to work on
24 Friday.

25 Let's see what happens on Saturday, the 24th. The one

1 on the left. Give me \$4,000. Four thousand dollars. Pretty
2 good wad of money, agree?

3 A. Agree.

4 Q. Billy Joe Harris gives Florence Collins \$4,000 either
5 on Friday or whatever. It's three separate times he gives her
6 the money, okay? And she goes down and makes that deposit in
7 his bank account under his request and his direction at 2:27
8 p.m. on the 24th.

9 He goes back to work in Edna on Monday. At some point
10 on Monday, apparently, because he goes back to work on
11 Tuesday...

12 If you'll go to the next one, let's look at his next
13 bank deposit.

14 That's got to be four thousand left, I'll tell you. I
15 won't argue with you. Another four thousand. You didn't keep
16 any, right? It's four thousand. He gives Florence Collins
17 another \$4,000 and tells her to deposit that into his bank
18 account and she does that Tuesday at 11:24 a.m.

19 Doesn't that sound like to you...

20 Oh, I'm sorry, I left out one other thing. Florence
21 Collins says where did you get this money from? And he says, I
22 can't tell you that.

23 Doesn't that sound like Billy Joe Harris is giving her
24 those deposits over those period of days, put it in my bank
25 account? That sounds like Billy Joe Harris, doesn't it?

1 A. It could be, but it could be Bobby --

2 Q. I got you.

3 A. -- this is the dilemma.

4 Q. If you want to hang to that, that's fine.

5 A. It's clearly him who's doing that, the body.

6 Q. The most reasonable explanation with it occurring over
7 three days or whatever is going to be that it's Billy Harris.
8 Would you agree?

9 A. Not necessarily.

10 Q. Good, fine.

11 A. It very well could be.

12 Q. But I'm asking you which one of those two sounds...
13 You're expressing opinions. I want you to tell the jury is it
14 more reasonable to you that it was Billy Joe Harris giving
15 Florence Collins that money or some alter? Which makes the most
16 reasonable explanation in your opinion?

17 A. I'd probably lean on the side of Billy Joe.

18 Q. Right.

19 Tell them what Occam's razor is?

20 A. It's actually Occam's razor.

21 Q. I'm sorry.

22 A. O-c-c-a-m.

23 Q. Tell them what Occam's razor is.

24 A. Occam.

25 Q. I don't care, whatever it is. That razor guy. What

1 is that?

2 A. It's also called the principle of parsimony.

3 Q. What is the principle?

4 A. It's from the Middle Ages, it's the idea that the
5 simplest explanation consistent with the facts is the best
6 explanation.

7 Q. And I think you agree the simplest explanation from
8 the facts of this would be that it was Billy Joe Harris. Agree?

9 A. Not necessarily.

10 Q. Now, you just said it was most reasonable. Isn't that
11 the simplest explanation?

12 A. I'd go a little beyond 50/50.

13 Q. All right. Here we go, here we go. The most simplest
14 explanation is at some point in time Billy Joe Harris, if it's I
15 drive to Edna, I rape this woman, I'm Bobby when I rape her. I
16 drive to Edna, I'm Billy Joe Harris. I drive back. I give her
17 the money on the 22nd, I'm Bobby. I drive back on another day,
18 I'm Billy. I drive back and I give her the money and I'm Bobby.
19 That's not the simplest explanation, is it, that it's just
20 switching like that? That isn't the most simplest. Just be
21 honest with them.

22 A. Well, there's nothing about the idea that's simple.

23 Q. Is it the most reasonable?

24 A. It's a reasonable possibility.

25 Q. Wow. Okay. Very well, sir.

1 Tell them this explanation, then. At some point, not
2 the only explanation, but at some point wouldn't Billy Joe
3 Harris -- they've heard him on the tapes, you may not agree, but
4 laughing at us about faking it -- at some point wouldn't Billy
5 Joe Harris go, "Wait a minute. I've got \$11,000 in my account,
6 where did that come from?"

7 A. I've spoken to hundreds of people with DID who have
8 facts staring them in the face and they just kind of space it
9 out and go "Huh" and don't piece it together and aren't bothered
10 by the contradiction. This happens all the time. So what
11 you're describing doesn't tell me whether it's Billy who did it,
12 it's Bobby who did it, it's Billy just kind of spacing it out
13 and not putting it together or what's going on.

14 Q. That's fine.

15 Would you agree it might make a little more sense if
16 Florence Collins said it was Billy Joe Harris and I know his
17 voice and it was his voice that was giving me the money and it
18 wasn't any big, loud... Would you agree that might make a
19 little more sense it was Billy?

20 A. Not necessarily because...

21 Q. That's fine. If you don't want to agree with that and
22 you want this jury to believe that that's a switching to get
23 that money in the account, I'll go with that. Is that your best
24 explanation?

25 A. No.

1 Q. Okay.

2 MR. BELL: At this time, Your Honor, we would
3 offer into evidence State's Exhibits 182, 183 and 184, which are
4 just excerpts from what has already been admitted through the
5 business records.

6 THE COURT: 182...

7 MR. BELL: 183 and 184.

8 THE COURT: State's Exhibits 182, 183 and 184,
9 any objection?

10 MR. COHEN: No objections.

11 THE COURT: They're admitted.

12 Q. (By Mr. Bell) I know, and we've already got it so I
13 don't want to have to keep saying it, you've agreed that there's
14 really no scientific way to know which alter is doing what, I
15 get that. Can we just move on from that?

16 A. Sure.

17 Q. Have you listened to the taped confession that Billy
18 Joe Harris gave trying to say it was consensual?

19 A. I haven't listened to the tape, I've heard him tell me
20 that in person.

21 Q. Well, wouldn't it be helpful if the -- would it mean
22 anything to you if the voice that he's described here is Bobby
23 and exhibited to this jury is not the voice that was on that
24 tape, but that voice on that tape where he said it was
25 consensual and gave all these excuses, including race, was

1 essentially the same as the I'm faking it deal?

2 A. Okay. If the voice he's speaking in sounds like
3 Billy --

4 Q. Right.

5 A. -- that's consistent with it being Billy or it's
6 consistent with Bobby trying to pass himself off as Billy.
7 Again, this is something that happens all the time in DID. It's
8 just not this neat black and white, cut and dried disorder.
9 It's very --

10 Q. Well, good.

11 A. -- shifting and confusing.

12 Q. You just gave me something that I really understand
13 now.

14 A. Okay.

15 Q. It could be Bobby talking through Billy or Billy
16 talking to Bobby?

17 A. Right.

18 Q. So Billy could be committing all these rapes and be
19 talking to Bobby?

20 A. It's possible.

21 Q. Well...

22 THE COURT: Do we still need the screens down?

23 Q. (By Mr. Bell) But we're all sure it's his body doing
24 the rape, right?

25 A. Right.

1 Q. And were you here when he said we're all the same,
2 we're all three together, we're all hovering over each other?
3 Did you hear him say that?

4 A. Yes.

5 Q. Have you ever had a chance to interview very many
6 people who were facing incarceration in prison and were making
7 up stories or whatever? Have you ever had a chance for that?
8 Not much, because you're not in forensic, are you?

9 A. No. This would be the first case, actually.

10 Q. Okay. Okay. Are you aware of these facts. I'm just
11 asking if you're aware of these facts. That the first defense
12 that was used by the body of Billy Harris was it's consensual,
13 she was my girlfriend?

14 A. Right, he explained that to me.

15 Q. Let me just go through them all, I'm asking did you
16 agree with that, right?

17 A. Right.

18 Q. In connection with that, he also had a deal, well,
19 it's really kind of a black/white thing. You heard that on the
20 tape too, right?

21 A. Right.

22 Q. And then he goes to the jail. Consistent with the
23 it's consensual and it's a race thing, he sends a letter to the
24 NAACP. You're aware of that now, right?

25 A. Yeah, I heard all of this yesterday.

1 Q. And that he has his family contact Quanell X to come
2 down because it's a black/white thing. Did you know that, too?

3 A. I heard it yesterday.

4 Q. And then when told by the Rangers that his hair might
5 be in different places, he gives a second interview saying you
6 know what? I wasn't there but Florence Collins was there when
7 some people moved my furniture and they were inmates and they
8 were in parts of my house she said that they shouldn't have been
9 and they vacuumed up some stuff and they got my hair brush as an
10 excuse. You've heard about that for the hair?

11 A. Yes.

12 Q. And then from there it's like, well, you know, there's
13 DNA there. Have you heard the, well, I had semen samples and
14 somebody came and got those and spread them all over the state?

15 A. Right.

16 Q. And telling Quanell X, well, the reason my DNA may be
17 all over the state is somebody got my clothing and spread it all
18 over the state. You're aware of that now, right?

19 A. I am.

20 Q. Did you get a chance to hear any of the types when --
21 I mean, I understand that you're not giving a diagnosis of PTSD,
22 right? That's correct?

23 A. Right.

24 Q. But that when that was in the vegetable soup of the
25 mental illnesses, are you aware that he actually gets on the

1 phone and starts talking about that PTS stuff and that it's so
2 bad that he had a bunch of wrecks with PTS? Are you aware of
3 that now?

4 A. He didn't attribute the wrecks to the PTSD with me, he
5 attributed them to Bobby --

6 Q. Right.

7 A. -- but I'm aware that he claimed he has PTSD.

8 Q. I'm getting to that, I'm sorry.

9 A. Okay.

10 Q. Are you aware that on the telephone when he's talking
11 to his girlfriend he's talking about, man, you know, that stuff
12 where people see that stuff overseas and they get that PTS and,
13 you know, that Fort Hood stuff and, man, that PTS is bad, I had
14 seven wrecks. If that's on a tape, you wouldn't dispute that's
15 the next defense, would you?

16 A. No.

17 Q. And then he changes that to when -- all of a sudden
18 we've got the MPD's working, all of a sudden it's Bobby having
19 the wrecks, right?

20 A. Right.

21 Q. And that's after you get involved, right?

22 A. I'm not sure if he said that to anybody or...

23 Q. I'm talking about you. You had no knowledge of it
24 until you got involved, right?

25 A. Right.

1 Q. As well as the feces?

2 A. Yeah, the first I heard of that was yesterday.

3 Q. Can we also... Oh, you haven't looked at any of the
4 records, have you?

5 A. I quickly went through the medical records yesterday.

6 Q. Prior to you forming your opinion that he had DID, had
7 you looked at any of those records?

8 A. No.

9 Q. I'm really going to try to short-circuit this. I'm
10 going to go through a few of these other incidents just to ask
11 you some questions, okay?

12 But the defendant said on the stand, you heard, that
13 he had not been here in September -- since September. Remember?
14 He got a Christmas present of the computer and he hadn't been
15 back down here since September --

16 A. Right.

17 Q. -- until January.

18 A. Until January.

19 Q. He got me on the 8th, but it's January the 7th.

20 Okay. I'm going to show you some things. I don't
21 know that it will mean anything, but let's look at them, if you
22 don't mind. And, again, Dr. Ross, we can assume that you
23 haven't looked at his personnel records to determine when he was
24 working and/or his bank records to determine where he was
25 prowling around, have you?

1 A. That's true, I have not.

2 Q. Well, let's look at some of them and see -- see where
3 he was and what he was doing, the body of Billy Harris. Okay?

4 MR. BELL: The first thing I'd like you to bring
5 up, Craig, and this is already in evidence...

6 But do you have an exhibit that we want to do
7 with this, Pam? I tell you, we'll get them in a minute and
8 introduce them.

9 This will be State's Exhibit 172, Your Honor.
10 I'll get it in just a minute so we don't have to interrupt this.

11 Will you rubber band... This is his bank
12 records. Rubber band that top one.

13 Q. (By Mr. Bell) Lookie here, Dr. Ross. On November the
14 13th he makes a purchase at Conner's. Okay? What time is he
15 making that purchase at Conner's?

16 A. I can't quite read it. What's it say?

17 Q. Can you read that?

18 A. Huh-uh. Oh, 8:24.

19 Q. 3:06?

20 A. 3:06, 24.

21 Q. At three o'clock in the morning the defendant is down
22 here prowling around, we'll introduce into evidence that that's
23 the 13th. That's early in the morning.

24 A. Okay.

25 Q. On the 12th, a Friday, he worked eight hours in

1 prison, at the prison system. Okay?

2 A. So this is the Thursday up here and the next day is
3 Friday he worked?

4 Q. That's correct. This is a Friday.

5 A. Oh, that's the Friday.

6 Q. On Thursday he's working.

7 A. Oh, Thursday he worked, okay.

8 Q. He's down here prowling around on Friday at three
9 o'clock in the morning, right?

10 A. Right.

11 Q. The body of Billy Harris?

12 A. Right.

13 Q. Are you aware that within a matter of three weeks he
14 broke into Catherine Wiegand's house and stole her computer,
15 printer and key, house key?

16 A. Yeah, I know that now.

17 Q. So apparently he was prowling around down here.
18 Agreed?

19 A. Agreed.

20 Q. Now, let's see when he's prowling around again. When
21 is that one, sir?

22 A. 1-02 at 23, almost midnight.

23 Q. January the 2nd, right before midnight. Okay? That's
24 a Sunday.

25 A. Uh-huh.

1 Q. Okay? So right before midnight on a Sunday he's
2 prowling around here and we know that on the 8th -- the 7th he's
3 going to be down here raping her, okay?

4 A. Right.

5 Q. Do you know that he was not only prowling around here
6 on the 2nd and the 3rd, which was a Sunday, tell the members of
7 the jury what he did... See that? Excuse me. That Monday?

8 A. Uh-huh.

9 Q. You see that ST?

10 A. Right.

11 Q. What's ST?

12 A. Sick.

13 Q. Taken?

14 A. Oh, sick taken. Okay. So that looks like sick leave
15 taken.

16 Q. So he's prowling around here on Sunday, which would be
17 early Monday, and he's going to rape Catherine Wiegand in a
18 matter of three days and he, Billy Harris, the body of Billy
19 Harris, calls in to the prison and says I won't be in to work
20 Monday, I got to take sick time. Almost sounds like Billy
21 Harris was raping -- planning to rape Catherine Wiegand, Billy
22 Harris, not just the body. It kind of sounds like that, doesn't
23 it?

24 A. It's the same problem.

25 Q. Yeah, okay.

1 A. The body, this human being, was clearly premeditating
2 and carefully planning all of this. But that doesn't tell me
3 Bobby versus Billy.

4 Q. So it was Bobby that called the warden and said I
5 won't be in Monday, right?

6 A. Could have been, but I doubt if he would have used
7 that voice.

8 Q. Well, if it's Bobby it would be. Oh, he just switches
9 back and forth, right? Could -- could be?

10 A. No. Anybody... Just like you could put on that
11 voice, Bobby can put on a voice that sounds like Billy.

12 Q. Is the most reasonable and plausible explanation that
13 Billy Joe Harris, who's been trying to con this jury and you
14 with that testimony that he was faking symptoms is, in fact, the
15 one that was prowling around here fixing to rape Catherine
16 Wiegand, and who, in fact, had Evelyn King's Internet search in
17 which she was going to be the next victim. That's the most
18 plausible explanation, is it not?

19 A. I don't agree.

20 Q. Okay. You think the most plausible explanation is
21 that he flips back on alters?

22 A. And sometimes there is -- more the alters are
23 co-present, sometimes one alter is influencing the other from a
24 background. There's a whole bunch of things that go on. It's
25 not just this clearcut hundred percent Bobby, hundred percent

1 Billy.

2 Q. I got you. But that makes more sense to you and is
3 more plausible than Billy Joe Harris is conning everybody, he's
4 down here raping people, right? That's more plausible to you,
5 the other one?

6 A. Right.

7 Q. Well, I kind of didn't want to, but I need to go
8 through some more of them, then, because I've got to ask you if
9 these are plausible because those are just a couple isolated's,
10 okay?

11 A. Your theory of the case and the alternative theory
12 that it's Bobby are both plausible. The question is how to
13 figure out which one it is.

14 Q. But you've already agreed that you can't determine
15 that based upon any scientific probability. That's correct,
16 isn't it?

17 A. Right, because I wasn't there at the time.

18 Q. That's not the only way. There's no scientific
19 research out there to prove to you you can identify which alter
20 is doing which thing. That's correct?

21 A. Right.

22 Q. You've said that a bunch of times, correct?

23 A. Correct.

24 Q. And if we know that on the right breast of Dorothy
25 Gerdes was Billy Joe Harris's DNA without any question, then we

1 know that the body of Billy Joe Harris raped Dorothy Gerdes.

2 A. Right.

3 Q. For the second time?

4 A. True.

5 Q. And if the MO, dressed in black, wearing gloves,
6 coming in through the window, having -- trying to get her to
7 take a shower, cutting the phone lines, unscrewing the porch
8 light, flipping the breaker box, and then when he spews semen
9 all over her face and he wipes it with a towel and throws the
10 towel in the shower to avoid anybody being collected -- anybody
11 collecting DNA is, in fact, the body of Billy Joe Harris?

12 A. Right.

13 Q. And if he took some keys, as he did in all these
14 women, and the keys actually match somebody that poor Dorothy
15 Gerdes is working for, that would still be the body --

16 A. Correct.

17 Q. -- of Billy Joe Harris?

18 Now, Mary McQuillen is a little different story, isn't
19 she?

20 A. In what regard?

21 Q. Were you in here when the testimony went on about
22 that? Were you in here when Billy Harris testified?

23 A. Yes, I was.

24 Q. Tell me what you know about anything that applies to
25 Mary McQuillen that has to do with alleged alters, so called

1 alters.

2 A. Well, he claims that he had a romantic relationship
3 with her and had been to her place three times prior to January
4 and that what was going on at the time just immediately before
5 he was arrested was consensual sex.

6 Q. I promise you I won't go through each one because I
7 think that's... But I want to show you this, if you don't mind,
8 sir.

9 MR. BELL: Craig, would you go to that one and
10 please pull up starting with SX-227 and just flip through them
11 until you get to 237.

12 Q. (By Mr. Bell) I want you to look at what the body of
13 Billy Joe Harris did claiming that he hovers -- Bobby hovers
14 over him and Bobby was there on this occasion, because Bobby's
15 told him and they all are three in one, right, all in the same?

16 A. Right.

17 Q. I want you to look at what the body of Billy Joe
18 Harris did to Mary McQuillen.

19 MR. BELL: If you would begin with 227.

20 Q. (By Mr. Bell) See that right there? That's Mary
21 McQuillen.

22 A. I do.

23 MR. BELL: Keep going through them and I'll tell
24 you when to go next. Next.

25 Q. (By Mr. Bell) See that? I want you to assume that

1 what he did was when she came out to go to church, he pounced on
2 her, waiting for her there to come out the door, wrapped the
3 cord, like a phone line, around her, cut her in this fashion.
4 Can we agree that whoever the body of Billy Joe Harris that did
5 that would know their conduct was wrong?

6 A. Bobby told me that he knew that was wrong.

7 Q. I'm asking you. Whoever the body of Billy Joe Harris,
8 whoever is doing that would know it's wrong?

9 A. That would depend on his mental state at the time.

10 Q. So you think that whether or not it's Billy or whether
11 or not it's Bobby, they wouldn't know that doing that to that
12 elderly lady was wrong. Is that what you're saying?

13 A. That's why there's an insanity defense in the law,
14 because sometimes people don't know.

15 Q. I'm asking you. Whoever did it, the body of Billy Joe
16 Harris is there. Whoever is doing that you don't believe would
17 know it's wrong?

18 A. Yeah, I believe that, in fact, Bobby was there and
19 Bobby knew it was wrong.

20 Q. I didn't ask you that. I asked you... Will you
21 answer my question?

22 A. Okay.

23 Q. We've got through that so we don't have to play --
24 dance on each one of that.

25 A. Okay.

1 Q. The body of Billy Joe Harris... I get your alter
2 theory, okay?

3 A. Okay, I can answer it. Both Billy and Bobby know that
4 rape is wrong, no question.

5 Q. And they would know that doing that to her is wrong?

6 A. Correct.

7 Q. That's all I asked you.

8 A. Okay, simple question.

9 Q. It's simple. Now, keep looking.

10 And they would know that's wrong. Keep going.

11 A. Right. I'm not disputing that they know it's wrong.

12 Q. And they would know that that's wrong?

13 A. Right.

14 Q. And that?

15 A. Right.

16 MR. BELL: Is that all of them? That's good
17 enough.

18 THE COURT: Mr. Bell and Mr. Cohen.

19 (At the Bench, off the record.)

20 Q. (By Mr. Bell) Maybe we can move really fast.

21 A. Okay.

22 Q. I'm taking it that all the heinous acts that this jury
23 may hear that were performed on all these women that the body --
24 you know when I say that what we're talking about --

25 A. Uh-huh.

1 Q. -- of Billy Joe Harris would definitely know that that
2 was wrong?

3 A. Right. Whether it was Bobby in control or Billy in
4 control, that would be true.

5 Q. How come we can't just assume that? You want me to go
6 through every one of these and do that? I asked you to assume
7 at the very first when I said Bobby, the body of Billy Joe
8 Harris, we were talking about your concept of alters, too.

9 A. Okay.

10 Q. Can you accept that or not or do you want me to do
11 every one?

12 A. I accept it.

13 Q. Can we assume that all of these heinous acts that are
14 performed on these women in the stealth manner in which they're
15 performed, that the body of Billy Joe Harris would know that was
16 wrong?

17 A. Yes.

18 Q. And whoever may have come down here and parked their
19 vehicle when they raped Catherine Wiegand, way off and backing
20 it in in the bushes to avoid detection, that body of Billy
21 Harris would know it was wrong?

22 A. Correct.

23 Q. And if that body went in through a window, with gloves
24 on and black clothing, having previously been dressed in a TDC
25 uniform, that body of Billy Joe Harris would know it was wrong?

1 A. Correct.

2 MR. BELL: I pass the witness, Your Honor.

3 RE-DIRECT EXAMINATION

4 BY MR. COHEN:

5 Q. That body of Billy Joe Harris, if either Bobby or
6 David is in control, will the persona with the identity of Billy
7 know it's wrong?

8 A. Well, to me, this is the whole question in the case.
9 If he doesn't have DID, it's kind of end of discussion. If he
10 does have DID, then the question becomes was it Bobby and David
11 who did the rapes. I assume so, because that's what Bobby told
12 me.

13 MR. BELL: Your Honor, I'm going to object. He's
14 already stated he can't do that, he can't identify who the
15 alters are based on scientific theories, methodology and rate of
16 error. That's why I didn't ask any of those questions. He's
17 not permitted to go beyond that under Daubert, Your Honor. He
18 said I cannot scientifically state which alter is doing what.
19 Now he's trying to do it and we'd object to it, Your Honor.

20 THE COURT: Okay. You can't offer an opinion
21 about which alter was doing what. You can talk about other
22 things, but you can't say...

23 THE WITNESS: So that's fine with me, because
24 that's not what I was in the middle of explaining.

25 A. To me, the question in the case is if we assume that

1 he has DID, if we assume it was Bobby who committed the rapes,
2 which is what Bobby told me...

3 MR. BELL: Then I object on that assumption,
4 Judge. He's assuming that Bobby was committing the rapes and
5 he's saying he can't do that scientifically, Judge. It's not a
6 legal head of a pin. You can't issue those opinions unless
7 there's scientific methodology to support that, and he's already
8 said there isn't. So now he's wanting to say if you assume that
9 Bobby did that.

10 THE COURT: Sustained.

11 Q. (By Mr. Cohen) The art and science of psychology, is
12 that so fixed where we have decimal points to determine and make
13 an analysis or a diagnostic call by a doctor?

14 A. No, sir. Psychiatry is not about x-rays and objective
15 proof 99.9 percent of the time.

16 Q. Assumptions would have to be made?

17 A. Correct.

18 Q. You were not there?

19 A. No.

20 Q. At none of these crimes?

21 A. True.

22 Q. The DA wasn't --

23 A. Correct.

24 Q. -- to your knowledge? Assumptions have to be made in
25 an investigation; is that correct?

1 A. True.

2 Q. You had to make assumptions in your investigation on
3 the psychological profile of Mr. Harris?

4 A. Correct.

5 Q. Based on certain assumptions, did you come to
6 conclusions?

7 A. Yes.

8 Q. Thank you. And do these conclusions have certain
9 names associated with them?

10 A. Yes.

11 Q. And who were they, please?

12 A. Billy, Bobby, Robert, David, Thomas Simpson.

13 Q. Without question or doubt as to your diagnosis of
14 Billy Harris suffering from DID?

15 A. I'm confident that's the correct diagnosis but I could
16 very well be wrong.

17 Q. And that could be the opinions of other doctors or
18 continuing research; is that correct?

19 A. What's that, now?

20 Q. That could be a basis on continuing research?

21 A. Right, there's continuing research in the area,
22 correct.

23 Q. Now, earlier the district attorney played a redacted
24 telephone conversation. Is that correct?

25 A. Correct.

1 Q. And you indicated that you had some confusion dealing
2 with listening and even reading this -- the transcript. Is that
3 correct?

4 A. Correct.

5 Q. What's your final summation of your understanding of
6 this?

7 A. Well, my final summation is you can't really tell
8 sometimes exactly what's being talked about until you figure it
9 out, like a few comments later, like they were talking about you
10 but it wasn't clear until they named you that it was you.
11 They're talking about the picture show, but it's not really
12 crystal clear what they're referring to there. And if you look
13 at -- on Page 1, third line from the bottom, it's Harris,
14 laughter, "I told you I had to help him. I told you I had to
15 help him."

16 Q. And what's your interpretation of that particular
17 sentence?

18 A. Well, that sounds to me like that's Bobby talking
19 about Billy, because he's referring to somebody else in the
20 third person. It could be that "him" is you, but it's unclear.

21 Q. Is there something in here about Little Red Riding
22 Hood?

23 A. Yeah, it's in there somewhere. Page 7, fourth thing
24 from the bottom or fifth.

25 Q. And on Page 7, continuing on, "It was a good show."

1 What does Harris say about one-third of the way -- at about the
2 two-thirds mark?

3 A. "But I told you, you know, it -- it had to do -- you
4 know, you had to put that picture show on."

5 Q. That picture show?

6 A. Right.

7 Q. And then dropping down another four lines, Harris
8 speaks again, where it starts, "Yeah."

9 A. "Yeah, I -- but I'm for the picture show, you know,
10 about that -- about that -- the -- the -- the Little Red Riding
11 Hood."

12 Q. To your knowledge, Doctor, was there a movie out about
13 that time called Little Red Riding Hood?

14 A. Yeah, I saw the previews for it. I didn't actually
15 see the movie.

16 Q. Okay. Doctor, the district attorney played a
17 videotape of you doing some experimentation; is that correct?

18 A. Correct.

19 Q. Is that sometimes referred to as garage science?

20 A. It's not actually garage science. In fact, it's
21 already been published in peer-reviewed journals. And I was
22 actually just in the middle of explaining it all to the jury a
23 few minutes back.

24 Q. Yes, sir.

25 A. So what this is, the James Randi Foundation is a

1 foundation that's very skeptical about the paranormal, and they
2 have this challenge where, if you can prove a claim in the
3 paranormal you get a million dollars, which seems like it would
4 be a good thing to win a million dollars.

5 So I put forward this challenge saying that I could
6 make a tone-sounding sound out of a computer using energy that
7 comes out of my eyes. And you'll see when you look at the
8 equipment and you listen to that claim, it sounds very kooky and
9 paranormal. And he accepted that as scientifically impossible,
10 that's obviously paranormal. If you can do that you would get
11 the million dollars.

12 And so the reason this is a claim of the paranormal is
13 because modern science is all based on light goes into your eye,
14 hits your retina and goes back to your brain and it's not
15 allowed that anything comes out of your eye. But as I was
16 explaining, the electrical energy of your brain or of your heart
17 comes out to the surface of your body and it keeps going out
18 into the world. There is electrical engineers who publish in
19 engineering journals who are funded for engineering research in
20 England who are taking a normal EKG three feet away from the
21 body, where the electrodes are not touching the body at all.

22 So what I did was I got a special kind of electrode
23 from a supply company at Ann Arbor, University of Michigan, put
24 it inside these goggles, because I just had a little budget, so
25 I got goggles from the sports store, put tin foil around it

1 the reward. So it's just basic science, neuro feedback, there's
2 nothing mysterious about it.

3 And I've just taken that software and hardware with
4 this special electrode and now I can record an EEG signal or
5 activate a neuro feedback tone using energy that comes out of my
6 eyes. Not because I have special powers, not because this is
7 some totally weird unscientific thing, it's all about the
8 attitudes. If you have the attitude that that's weird and
9 unscientific and nothing can come out of your eyes, it's
10 paranormal. As soon as you demonstrate, well, wait a minute,
11 this is just everyday normal brain waves that come out, you can
12 pick them up, you can display them on a computer, you can make a
13 tone sound, it's no different from taking an EKG, then we've
14 shifted it from close to paranormal into science.

15 And I actually have a patent from the U.S. Patent
16 Office for technology based on this. I'm contracting with
17 engineers who have Defense contract level engineering projects
18 going all the time to try and get a series of electrodes that
19 are more sensitive, because this is just like a clapper light in
20 your house. You clap your hands, sound wave goes to the light.

21 MR. BELL: At this point, Your Honor, I think it
22 would be a little non-responsive to the question. It's just a
23 narrative.

24 THE WITNESS: I'm explaining why this is not
25 kooky science.

1 MR. BELL: I'm not talking to you, Dr. Ross, I'm
2 talking to the Court. Let's let the judge make that...

3 My objection is it's non-responsive, Your Honor.

4 MR. COHEN: We'll proceed on. I think the jury
5 understands.

6 MR. BELL: I object to the side bar, Your Honor.

7 THE COURT: I'll sustain the objection to the
8 side bar.

9 Q. (By Mr. Cohen) The purpose -- ultimate purpose of...
10 This is true experimentation; is that correct?

11 A. Correct.

12 Q. This is for medical science, ultimately for
13 paraplegics, is that...

14 A. That would be one application.

15 Q. What are some other applications of this?

16 A. There's no limit to it. If the electrode and the
17 software and the hardware can tell the difference between when
18 you're not looking straight at it and you are straight looking
19 straight at it, that becomes a switch, on/off switch, and you
20 can have that attached to anything on the planet. So you could
21 turn a computer on, you could activate the lights in the
22 morning, there's no end to the applications.

23 Q. You would agree with me, then, this is an absolute
24 pure science?

25 A. Right.

1 Another application is to get that sensor inside an
2 iPhone so you can take an EKG from your iPhone and E-Mail it to
3 your doctor without having to touch your body.

4 Q. I used the term garage science earlier. Bill Gates,
5 where did he initiate use of computer technology and software,
6 coming out of where?

7 A. I'm guessing it was his garage.

8 MR. BELL: Object as irrelevant, Your Honor.

9 THE COURT: People have to bolster some.

10 Q. (By Mr. Cohen) Just because you have a pair of blue
11 jeans on and a tee shirt while conducting this research rather
12 than a laboratory coat, does that have any significance?

13 A. No.

14 Q. Doctor, the DSM-IV, that's the accepted treatise for
15 the psychological establishments?

16 A. Correct.

17 Q. The section dealing with dissociative disorders is
18 contained within that section?

19 A. Right.

20 Q. Best supported by the American Psychiatric
21 Association?

22 A. That's who publishes the DSM.

23 Q. And a little more background on who that association
24 is and who they're comprised of.

25 A. It's basically the official association for all

1 psychiatrists in the United States, plus you can belong from
2 outside the United States if you want.

3 Q. Would a good analogy be the DSM-IV is to psychology as
4 the Bible is to theology?

5 A. Yes, that's pretty well accurate.

6 MR. BELL: Objection, Your Honor. That's not
7 what the DSM is. I mean, if he wants to ask him if that's what
8 it is, then I want him to say it on the record what the question
9 is -- what his answer is. If it's the Bible on dissociative --
10 dissociative identity disorder, if it is the Bible on proving
11 it's a scientifically-accepted theory based on scientific
12 methodology that had been subjected to peer review and percent
13 of error and that's the reason it's in the DSM, then let him ask
14 that question, but not just to go on about the DSM.

15 Q. (By Mr. Cohen) Did you hear what the DA said?

16 A. Yes.

17 Q. Well, I can't repeat it, but do you understand what he
18 was asking?

19 MR. BELL: I'll be happy to.

20 VOIR DIRE EXAMINATION

21 BY MR. BELL:

22 Q. What's in the DSI -- DSM only gets there if it has
23 been accepted in the scientific community based on published
24 peer-reviewed articles that have been subjected by credible
25 scientists and then only if it's been subjected to a peer review

1 group and percent of error. It cannot get in the DSM unless it
2 passes all of that. Is that what you're saying?

3 A. That's true of the majority, but not all the
4 disorders.

5 Q. That's not what I'm asking. Is that true of the DID?

6 A. Yes.

7 Q. Thank you.

8 MR. COHEN: Thank you.

9 CONTINUED RE-DIRECT EXAMINATION

10 BY MR. COHEN:

11 Q. Along with the American Psychiatric Association, what
12 about the psychiatric -- the American Psychiatric Press, how
13 does that relate to it?

14 A. That's the official publishing arm of the American
15 Psychiatric Association, which published that Handbook of
16 Psychiatric Measures that I mentioned earlier that has that
17 structured interview that I developed in it, along with measures
18 for all kinds of mental health problems. So the American
19 Psychiatric Press, which is the official publishing arm of the
20 American Psychiatric Association, has said, yeah, we should
21 include this, this is real and legitimate.

22 Q. Have you published any papers dealing with the
23 Psychiatric Press?

24 A. I've published a series of papers on dissociative --
25 dissociation in general, dissociative identity disorder in

1 particular in the American Journal of Psychiatry, which is peer-
2 reviewed, it's the official top journal of the American
3 Psychiatric Association.

4 Q. And the American Journal of Psychology, what is that?

5 A. That's the -- one of the journals of the American
6 Psychological Association. So Psychiatric Association is the
7 M.D.s, psychiatrists who can write prescriptions and so on.
8 Psychological Association is Ph.D. psychologists who have gone
9 through Bachelors, Masters, Ph.D., not to medical school, can't
10 write prescriptions.

11 MR. COHEN: Pass the witness.

12 RE-CROSS EXAMINATION

13 BY MR. BELL:

14 Q. Does any of what he just asked you change any of your
15 opinions?

16 A. No.

17 Q. Well, I only have two areas. I want you to get
18 that -- I'm not going to play it again -- I want you to get that
19 transcript out since you think a reasonably plausible
20 explanation is he was talking about Little Red Riding Hood and
21 not about faking his symptoms. All right?

22 When he starts out on Page 1 and says, "A good show,"
23 and she says, "Uh-huh," and he says, "Good," and he goes, "Good,
24 good," and he says, "We'll talk about it tomorrow, it was a good
25 show," do you think he's talking about Little Red Riding Hood?

1 A. It's not clear to me what he's talking about.

2 Q. I'm asking you, in your opinion.

3 A. It's possible.

4 Q. I know it's possible that I can shoot an eye beam out
5 and play a computer, I'm asking you do you believe that's a
6 reasonable explanation you want this jury to believe?

7 A. No.

8 Q. Okay. That's not reasonable, is it?

9 A. I'm not saying what the explanation is.

10 Q. Would it be more reasonable that he's laughing because
11 he did fall on the floor, he was putting on an act, just like he
12 fell on the floor and came running out of here when we were
13 going to play this tape. That's more plausible, isn't it?

14 A. No.

15 Q. And when she said, "They listen to our calls." The
16 next page. He says, "I was going to ask you what -- what about
17 the big show you looked at today." Do you think she was in the
18 courtroom watching Little Red Riding Hood?

19 A. No, I'm confident she wasn't.

20 Q. She was watching him flop on the floor, right?

21 A. I assume so, if you're telling me she was there.

22 Q. I want you to assume, because there's not going to be
23 any dispute about it --

24 A. Right.

25 Q. -- this phone call is made after he gets back to Edna

1 after he's flopped on the floor and done the things just like
2 he's doing here. He's talking about, "What about the big show
3 you looked at today," the flopping on the floor. Right?

4 A. Right.

5 Q. Not talking about Little Red Riding Hood?

6 A. Okay, probably not, I agree with you.

7 Q. Did you just say probably not or no, it's not?

8 A. Yeah. Now that you point out that, I would agree that
9 most likely that he's talking about previous day.

10 Q. Let's go to Page 3. Page 3. And this is read in
11 conjunction with you now know that he's talking about his lawyer
12 not moving things along. He even uses his name, right?

13 A. Right.

14 Q. Not moving things along --

15 A. Right.

16 Q. -- reasonably to assume the insanity defense. Would
17 you agree? Since it's flopping on the floor?

18 A. Yeah, it very well could be.

19 Q. He said, "You know, the thing is that picture show and
20 stuff like that, you know, had to do that because -- to get --
21 to get stuff rolling." And she says, "Oh, yeah, it's rolling
22 now."

23 Now, wouldn't you agree the more plausible explanation
24 is he's not talking about Little Red Riding Hood, he's talking
25 about flopping on the floor to make an appearance like he's got

1 all these symptoms and he's got to get his lawyer moving along.
2 That's the most plausible, would you not agree?

3 A. Okay. You've actually convinced me that is true.

4 Q. Okay. And, by the way, at the end when he said Little
5 Red Riding -- I know it's not your fault, but look at the very
6 end when he says -- he's trying to talk in code. He says,
7 "Yeah, yeah, yeah, yeah, I, the picture show, you know, you
8 know, you know, you know, the Little Red Riding Hood," and she
9 goes, "Uh-huh," and he says, "You know what I'm talking about."
10 That's more like I'm talking about that picture show that I put
11 on for you. Wouldn't you agree that's the more plausible
12 explanation?

13 A. I don't know about Little Red Riding Hood being code,
14 but that would fit, yeah.

15 Q. You know what I'm talking about, he's talking about
16 all that picture show stuff --

17 A. Right.

18 Q. -- that makes more sense.

19 A. So the question I have in my mind is why did this
20 clever criminal...

21 Q. I didn't ask you a question about that. I asked you
22 if it was a more plausible explanation.

23 A. Okay.

24 Q. Would you agree it is?

25 A. Yeah.

1 Q. Okay. I don't want to go through all this paranormal
2 and whatever, but let me ask you this. Obviously when you did
3 that you were trying to get a million dollars or you were trying
4 to set up where you could get a million dollars by doing
5 something that they classified as paranormal, right?

6 A. Right.

7 Q. And you did plug something into your computer, didn't
8 you?

9 A. Right.

10 Q. We saw that. And the reporter asked you what's the
11 program on that computer and you said, "Well, I can't tell you
12 that right now," didn't you?

13 A. I said that at that time, yeah.

14 Q. Okay. Well, let me ask you this. It's been 2008 and
15 you haven't got anything up until now as a million dollars.
16 Wouldn't the best way to get a million bucks is if I give you
17 everything that's needed, don't let you plug anything into a
18 computer, and you do whatever it is, eye beams or whatever, and
19 play a tune on Dr. Barden's computer, wouldn't that be a really
20 good way to get a million bucks? You want to do that?

21 A. You're not going to give me a million bucks, it has to
22 be true...

23 Q. What if I tell you I'll go testify that you played a
24 tune on a computer without plugging stuff. Do you want to do
25 that now, you think you can do it?

1 A. No.

2 Q. Okay, that's fine.

3 MR. BELL: No further questions.

4 RE-DIRECT EXAMINATION

5 BY MR. COHEN:

6 Q. Doctor, the jerking around and the flopping on the
7 floor, is that an essential part of the DID diagnosis?

8 A. It's not an essential part, but it's very common for
9 people with DID to have neurological-looking symptoms that
10 aren't neurological at all, they're completely psychological.
11 It's very common for alter personalities in the background to
12 inflict symptoms on the person up front.

13 And Bobby explained to me directly he wants to make
14 Billy guilty and he wants to put on a show in the court and he
15 wants to make -- turn it into a circus not to get Billy off, he
16 wants Billy convicted. The whole goal of Bobby is to get Billy
17 convicted and in trouble and in jail. So this could very well
18 be Bobby manipulating things from the background and Billy
19 honestly is just experiencing it as something that's happening.
20 That's realistically possible.

21 Q. The concept of conviction, would that be in line with
22 injury to one's self or suicide?

23 A. The concept of what?

24 Q. Of Billy being convicted, would that be along the
25 parallel of Bobby trying to have Billy killed in the automobile?

1 A. Yeah. Bobby's obviously really trying hard to hurt
2 Billy, get him in trouble. He states that as his deliberate
3 intent.

4 MR. COHEN: I have no further questions.

5 RE-CROSS EXAMINATION

6 BY MR. BELL:

7 Q. Then answer one simple question for me. Yesterday
8 when we were in court, not Bobby but Billy asked me, well, show
9 me the DNA, show me the DNA, you can't show me the DNA. That's
10 not Bobby, that was Billy, because we saw the difference.

11 A. Right.

12 Q. If it's just Bobby trying to get Billy in trouble, why
13 would Billy be telling me to show him the DNA?

14 A. Because Billy is also trying to get out of trouble,
15 but his strategies are preposterous.

16 Q. That's all I have.

17 Billy's trying to get out of trouble. You agree with
18 that?

19 A. Yeah.

20 MR. BELL: Okay. That's all I have. No further
21 questions.

22 MR. COHEN: I have no further questions, Your
23 Honor.

24 THE COURT: You may step down.

25 Can he be excused?

1 MR. COHEN: Just a moment.

2 THE COURT: Okay. We'll take our afternoon break
3 at this time and I'll ask you to be back in the jury room, ready
4 to proceed, at 20 minutes after 3:00. And we'll be in recess
5 until then.

6 (Afternoon recess.)

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1 THE STATE OF TEXAS) (

2 COUNTY OF VICTORIA) (

3 I, SHARON MIORI, Official Court Reporter in and for the
4 267th Judicial District Court of Victoria County, Texas, do
5 hereby certify that the above and foregoing contains a true and
6 correct transcription of all portions of evidence and other
7 proceedings requested in writing by counsel for the parties to
8 be included in the Reporter's Record in the above styled and
9 numbered cause, all of which occurred in open court or in
10 chambers and were reported by me, under my direction.

11 WITNESS MY HAND, this the 31st day of January,
12 2012.

13
14
15 151
16 Sharon Miori, CSR 1806, RMR
17 Certificate Expires 12-31-13
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